

18:00 1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION

4 UNITED STATES OF AMERICA (NUMBER 3: 04-240-G
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8 HOLY LAND FOUNDATION, ET AL. (July 19, 2007

18:00 9

10 VOLUME 4
11 VOIR DIRE EXAMINATION
12 BEFORE THE HONORABLE A. JOE FISH

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18:00 1

P R O C E E D I N G S:

2 THE COURT: Good morning, Ladies and Gentlemen.

3 MR. WESTFALL: Your Honor, may I approach?

4 THE COURT: Yes, sir.

5 Thank you for being on time.

6 MR. WESTFALL: Your Honor, I haven't had a
7 chance to speak to the government, but I was thinking last
8 night, the Court has given us six strikes per side for
9 alternates.

10 THE COURT: Yes, sir.

11 MR. WESTFALL: That would basically be the
12 equivalent of having received twenty-four strikes for the
13 venire panel. We haven't gotten so fond of those six
14 strikes that we wouldn't be willing to go to the statutory
15 three. And with -- We could automatically have six more
16 on this panel if we went to the three strikes per side.
17 That may be an idea. I think everyone, your Honor, would
18 love to figure out a way to make this thing end at lunch
19 time.20 THE COURT: Well, why don't you take a minute to
21 confer with counsel for the government to see if that's
22 agreeable to them, and if so, maybe we can shorten these
23 proceedings.24 MR. JACKS: Your Honor, this is the first we
25 have heard of it and to sit here and try to think about

18:00 1 the impact of that, we will need more time.

2 THE COURT: I understand that. So maybe you can
3 reflect on it and let me know either after the mid-morning
4 recess or after the lunch recess.

5 MR. JACKS: Thank you, your Honor. I have one
6 question I wanted to raise. Regarding the challenges for
7 cause and the hardship situations, I wasn't sure what the
8 Court intended to do -- if the Court was simply going to
9 make a ruling on those and come back and tell us or if the
10 Court was going to perhaps take a moment and summarize so
11 that we all are on the same page as to who's still out
12 there with a cause challenge pending. And even beyond
13 that, if the Court would even consider giving each side
14 thirty seconds or so just to crystallize their causes and
18:00 15 their response to that cause.

16 THE COURT: Well, the time table I thought we
17 were on before Mr. Westfall rose to speak a moment ago
18 would be for us to have a general voir dire session,
19 probably at nine o'clock tomorrow morning, but early in
20 the day tomorrow. And in order to accomplish that, I will
21 need to make a ruling on these pending challenges for
22 cause and hardship excuses by early afternoon today so
23 that we would be able to place a recorded message on this
24 automated telephone system at the jury administrator's
25 office by three o'clock which people needed to report

18:00 1 tomorrow. So it's my intent to compile that list as we
2 were going along so that I could announce that some time
3 maybe by -- at the conclusion of the noon recess or if I
4 get it together sooner maybe even before that. So that
5 was my plan. But in light of what Mr. Westfall has
6 suggested, I'm not sure where we are on the time table if
7 we do try to accelerate things in the manner he suggested.

8 MR. JACKS: Thank you, your Honor. Does the
9 Court have in mind the number that it would like to have?

10 THE COURT: Well, under the numbers that we were
11 operating on before, you know, with six strikes per side
12 for alternates and wanting to have six alternates at the
13 end, that's a total of eighteen, six plus six plus six,
14 and then to get our jury of twelve, I have allocated
18:00 15 twelve strikes collectively to the defense and seven for
16 the government, and then the twelve jurors that we want to
17 wind up with is -- Twelve plus twelve plus seven is
18 thirty-one. So that's a total of forty-nine all together,
19 regular and alternates. And my goal today was to question
20 enough people so that after I make a ruling on these
21 challenges for cause and hardship excuses, we would have
22 probably I would say somewhere like half a dozen to a
23 dozen in excess of this forty-nine minimum in case
24 something comes up at the general voir dire that none of
25 us has heard about before, and we wind up having to excuse

18:00 1 a few additional people. That was my thought. I don't
2 have a definite number in mind but just some cushion
3 beyond the forty-nine numbers.

4 I believe when we left off for the day yesterday
5 our next person was Patricia Sanders.

6 Good morning, Ms. Sanders. Counsel for the
7 parties have some questions they would like to ask you?

8 VENIRE PERSON: Okay.

9 THE COURT: Mr. Westfall.

10 MR. WESTFALL: Thank you, your Honor. My name
11 is Greg Westfall. How are you this morning?

12 VENIRE PERSON: I'm good. How are you?

13 MR. WESTFALL: I'm one of the defense lawyers in
14 this case, and I am going to speak with you a few minutes.

18:00 15 This case is United States versus the Holy Land Foundation
16 and involves allegations by the government that the Holy
17 Land Foundation and some of the men involved with the Holy
18 Land Foundation gave material support to HAMAS which is a
19 foreign terrorist organization. The Holy Land Foundation
20 was an American Muslim charity based in Richardson. Have
21 you heard of the case before?

22 VENIRE PERSON: No.

23 MR. WESTFALL: Haven't heard anything in the
24 media?

25 VENIRE PERSON: No.

18:00 1 MR. WESTFALL: Do you know any Muslims?

2 VENIRE PERSON: No, sir, I don't.

3 MR. WESTFALL: Have you ever?

4 VENIRE PERSON: No, sir.

5 MR. WESTFALL: Have you had any good experiences

6 with either Muslims or people of Arabic descent?

7 VENIRE PERSON: Stopping by the gas station to

8 get gas. Other than that, you know, I'm pretty --

9 MR. WESTFALL: Has it been pleasant?

10 VENIRE PERSON: Yes, very pleasant.

11 MR. WESTFALL: Any bad experiences that you can

12 think of?

13 VENIRE PERSON: No, none at all.

14 MR. WESTFALL: So on a case where we're talking

18:00 15 about Muslims, Muslim men that are charged with something

16 that has terrorism in the title -- material support to

17 terrorism in the title, how do you feel about being on a

18 jury -- I know you did jury service before but not on a

19 case like this. How do you feel about being on a jury

20 like this?

21 VENIRE PERSON: It doesn't bother me. They need

22 to be judged on the facts. I don't look at it any

23 different. I just look at the facts presented and make my

24 judgment from that.

25 MR. WESTFALL: How do you feel about free

18:00 1 speech, First Amendment?

2 VENIRE PERSON: I guess everybody needs to be
3 able to express themselves. I don't try to hold anybody
4 back from saying what they want to say. We live in
5 America. Everybody can say what they want to say. I
6 don't judge them for it. That's their opinion. I have my
7 opinion. No judgment, just that's your opinion. We can
8 agree to disagree, and we go on from there.

9 MR. WESTFALL: You said in your questionnaire
10 that you were currently unemployed.

11 VENIRE PERSON: I'm looking for a job, yes.

12 MR. WESTFALL: Are you?

13 VENIRE PERSON: Yes.

14 MR. WESTFALL: Any leads on any?

18:00 15 VENIRE PERSON: I'm working with a temp agency
16 right now, and they are trying to hunt me up a position.
17 Nothing yet.

18 MR. WESTFALL: What kind of a position?

19 VENIRE PERSON: Clerical, secretarial.

20 MR. WESTFALL: What do you like about that?

21 VENIRE PERSON: People around the office, lots
22 of customer contact. Helping people. I like to do that
23 kind of stuff.

24 MR. WESTFALL: Are you involved with a church?

25 VENIRE PERSON: Yes.

18:00 1 MR. WESTFALL: Which one?

2 VENIRE PERSON: New Mount Zion Baptist in

3 Dallas.

4 MR. WESTFALL: Do you do any like volunteer work

5 with the church?

6 VENIRE PERSON: It depends, you know. Just

7 helping out, doing Thanksgiving holidays, things like

8 that. Sometimes I have had a chance to do the Meals on

9 Wheels, things like that around the community.

10 MR. WESTFALL: Do you enjoy doing that?

11 VENIRE PERSON: I enjoy doing that, yes.

12 MR. WESTFALL: Do you work with any charities at

13 all?

14 VENIRE PERSON: I do. Mothers -- I guess it's

18:00 15 MADD is what I'm trying to do.

16 MR. WESTFALL: Mothers Against Drunk Drivers?

17 VENIRE PERSON: Yes.

18 MR. WESTFALL: What did you do for them?

19 VENIRE PERSON: Donations around the

20 neighborhood or something like that. I will help them

21 that way. Organizing things at school for the kids.

22 Nothing real big.

23 MR. WESTFALL: What caused you to gravitate

24 towards Mothers Against Drunk Drivers?

25 VENIRE PERSON: Having teenagers in the house on

18:00 1 a Friday night and that fear of having them go out and be
2 in an accident.

3 MR. WESTFALL: So you haven't suffered a
4 personal loss?

5 VENIRE PERSON: Myself, I have not. But seeing
6 others that have, I feel like that's something -- We
7 really need to drive that home to our kids that they need
8 to be responsible behind the wheel.

9 MR. WESTFALL: This trial may last four months.

10 VENIRE PERSON: Okay.

11 MR. WESTFALL: Are you okay?

12 VENIRE PERSON: I have no problems with that.

13 MR. WESTFALL: No hardships, problems with that?

14 VENIRE PERSON: I'm in the middle right now of
15 getting my daughter ready for a marriage next month, but
16 other than that I have no concerns about the time limit.

17 MR. WESTFALL: Okay.

18 Do you have any questions or anything else you
19 would like to say that I haven't asked you?

20 VENIRE PERSON: No, I don't think so.

21 MR. WESTFALL: Thank you so much.

22 VENIRE PERSON: Thank you.

23 THE COURT: Counsel for the government have
24 questions for Ms. Sanders?

25 MR. JACKS: Thank you, your Honor. Good

18:00 1 morning, Ms. Sanders.

2 VENIRE PERSON: Good morning.

3 MR. JACKS: I appreciate your being here
4 yesterday and again today. We appreciate your patience
5 with us.

6 VENIRE PERSON: No problem.

7 MR. JACKS: My name is Jim Jacks. I'm an
8 Assistant United States Attorney in the Northern District
9 of Texas. I will be one of the prosecutors representing
10 the government during this trial. I just have a few
11 questions to follow-up on as well.

12 What are some of the places that you have worked
13 with companies or offices that you have worked in the last
14 few years?

18:00 15 VENIRE PERSON: No, I was employed with what was
16 formerly Bank One which is now Chase from 1989 up until
17 about 2001.

18 MR. JACKS: Did you work in a bank location or
19 like a corporate office?

20 VENIRE PERSON: Kind of both. I have worked
21 here in the downtown area, and then I have worked out
22 in -- I have worked at the Oak Lawn office. I have worked
23 at the office -- Industrial, down there by Saint Paul.

24 MR. JACKS: How many years did you work for Bank
25 One, slash Chase slash J.P. Morgan?

18:00 1 VENIRE PERSON: Thirteen years.

2 MR. JACKS: And before that?

3 VENIRE PERSON: Before that, I worked for GE
4 Capital doing customer service for them. I worked for
5 them a couple of years. I'm not sure who else.

6 MR. JACKS: That's fine. Your husband on one of
7 the lists we have you indicated he was a phone technician?

8 VENIRE PERSON: Yes, he works for AT&T.

9 MR. JACKS: How long has he worked for them?

10 VENIRE PERSON: He just celebrated his 35th
11 anniversary.

12 MR. JACKS: What is meant by phone technician?

13 VENIRE PERSON: He works primarily with
14 commercial customers when their phones go down. Now, he
18:00 15 can sit at a desk and communicate back and forth with them
16 and fix whatever problems that they are having. So he's
17 mostly in the office all the time.

18 MR. JACKS: And you and your husband, did you
19 all grow up in the Dallas area?

20 VENIRE PERSON: I did. My husband is from a
21 small town in East Texas, Sulfur Springs. But I grew up
22 in the Dallas area.

23 MR. JACKS: I notice you have college credits.
24 Where did you attend college?

25 VENIRE PERSON: I started here at El Centro, and

18:00 1 I transferred out to Richland, and that was my early
2 years. We had just gotten married, and I had a child on
3 the way and didn't finish college. Had to go to work.

4 MR. JACKS: Yes, ma'am. You have two children,
5 a daughter twenty-one and a son thirty-one?

6 VENIRE PERSON: Yes.

7 MR. JACKS: And I think you told us that your
8 son is currently serving time for a drug conviction.

9 MR. JACKS: Yes, sir. He had a small amount --
10 I guess under two ounces or ounce or something of a
11 controlled substance, and they didn't say what the
12 substance was. So he had some probation time that he had
13 to finish serving. So he's been serving his probation
14 time for about a year.

18:00 15 MR. JACKS: So he's not incarcerated?

16 VENIRE PERSON: Well, he is incarcerated now.
17 So he should have been getting out before the year is out,
18 is what I understand.

19 MR. JACKS: Did he plead guilty or have a trial?

20 VENIRE PERSON: I guess he pled guilty. He
21 didn't have a trial or anything.

22 MR. JACKS: Did you and your husband have to
23 hire an attorney?

24 VENIRE PERSON: Yes, we did.

25 MR. JACKS: Did you have to go to court?

18:00 1 VENIRE PERSON: Yes, we did.

2 MR. JACKS: Regarding that experience, do you
3 feel like he was treated fairly or appropriately by the
4 criminal justice system?

5 VENIRE PERSON: Yes, I do.

6 MR. JACKS: He's thirty-one. Does he have his
7 own family or is he single?

8 VENIRE PERSON: He's single.

9 MR. JACKS: Is your daughter at home or in
10 school?

11 VENIRE PERSON: Yes. She went to school for
12 Mercedes Benz United Technical Institute to learn how to
13 work mechanics, and she had a position out in California
14 for a short time working for the Mercedes Benz, but now
18:00 15 she's back in the Dallas area, and she's waiting for
16 something to come open with them, and she will go back to
17 work with them.

18 MR. JACKS: You said you were a member of New
19 Mount Zion church?

20 VENIRE PERSON: Yes, sir.

21 MR. JACKS: How big is that church in terms of
22 families or members?

23 VENIRE PERSON: I would say we have about
24 twenty-five hundred, three thousand members.

25 MR. JACKS: Are you a regular attendee? Do you

18:00 1 go every Sunday?

2 VENIRE PERSON: Yes, I do.

3 MR. JACKS: Do you have any special -- Are you
4 in the choir or do you hold an office?

5 VENIRE PERSON: I don't hold an office at this
6 time. I was a regular choir member a few years. However,
7 I had a couple of illnesses that came up that kept me from
8 that, but being in the choir was my thing.

9 MR. JACKS: You have been on a trial jury before
10 in a criminal case, correct?

11 VENIRE PERSON: Yes, I have.

12 MR. JACKS: If you recall in that case, at the
13 end of the evidence after both sides have put in their
14 evidence and either before or after, depending on the
18:00 15 court it was in, the judge will read instructions to the
16 jury and tell them what the law is. Do you recall that?

17 VENIRE PERSON: Yes.

18 MR. JACKS: That will happen in this case as
19 well. And as has been stated to you, the central or lead
20 charge in this case that is referred to is providing --
21 this corporation or this association and people that work
22 for it are accused of providing material support to a
23 foreign terrorist organization; namely, HAMAS. Have you
24 ever heard of HAMAS?

25 VENIRE PERSON: I have heard of HAMAS on the

18:00 1 news.

2 MR. JACKS: At the end when the Judge gives you
3 his instructions, I expect those instructions will contain
4 among other things a statement that the organization HAMAS
5 has been designated by the United States Government as a
6 foreign terrorist organization. I also expect the judge
7 to include in his instructions a statement to the effect
8 of the law provides that you can't give anything that
9 would be to or for the benefit of a foreign terrorist
10 organization, even things that would otherwise be
11 considered charitable items, like food clothing, medical
12 supplies. If it's intended to benefit that foreign
13 terrorist organization, even so called good things like
14 that, it's against the law to do that. Would you be able
18:00 15 to follow the instruction and follow the law if that was
16 the law given to you?

17 VENIRE PERSON: Definitely.

18 MR. JACKS: Thank you, Ms. Sanders.

19 THE COURT: Ms. Sanders, we're in the process of
20 talking with the members of the panel from which the
21 members of the jury will be selected to hear this case,
22 and I expect that process to go on for a while longer
23 today. Until you hear from us again, you should not
24 discuss this case with anyone or allow anyone to discuss
25 it with you, and if there are any media accounts about the

18:00 1 case on the television or in the newspapers or radio, you
2 should not read or watch or listen to any of those media
3 accounts.

4 Thank you, ma'am. You may be excused.

5 Good morning, Mr. McGahan. Counsel for the
6 parties have some questions they would like to ask you.

7 MR. WESTFALL: Good morning. I'm Greg Westfall.
8 I'm one of defense lawyers on this case. Thank you for
9 coming here. You probably came here yesterday, too.
10 Thank you so much for your time and your patience. This
11 case is the United States versus the Holy Land Foundation.
12 Have you ever heard of that case?

13 VENIRE PERSON: Just a few times.

14 MR. WESTFALL: What have you heard?

18:00 15 VENIRE PERSON: I can remember after 9-11, you
16 know, just a little bit of the news. The only thing I
17 remember it saying is that they were accused of sending
18 money over. That's about really all I knew about it.

19 MR. WESTFALL: What the accusation or charge is
20 is material support of a foreign terrorist organization,
21 specifically HAMAS. And it was an American Muslim charity
22 based in Richardson and the allegation is material support
23 to HAMAS. What do you know about HAMAS?

24 VENIRE PERSON: Just hearing the name just every
25 now and then in the news.

18:00 1 MR. WESTFALL: Is there anything about what you
2 have heard in the news -- Have you made up your mind as to
3 opinions as to the guilt or innocence of the defendants?

4 VENIRE PERSON: I really couldn't.

5 MR. WESTFALL: Haven't heard quite enough?

6 VENIRE PERSON: No.

7 MR. WESTFALL: This case could run four months.
8 So needless to say, there is a whole lot more out there
9 that wasn't in the newspapers.

10 VENIRE PERSON: All right.

11 MR. WESTFALL: Where are you a delivery driver?
12 Is that what you still do?

13 VENIRE PERSON: I drive for United Parcel
14 Service.

18:00 15 MR. WESTFALL: Oh, UPS?

16 VENIRE PERSON: Yes.

17 MR. WESTFALL: Did you ever deliver to the Holy
18 Land Foundation? Was that in your route?

19 VENIRE PERSON: No, I never delivered in
20 Richardson. The closest I would have gotten is the west
21 edge of Garland.

22 MR. WESTFALL: How long have you been with UPS?

23 VENIRE PERSON: Twenty-three years.

24 MR. WESTFALL: So early eighties?

25 VENIRE PERSON: 1983 was the first Christmas I

18:00 1 worked.

2 MR. WESTFALL: I guess you like it.

3 VENIRE PERSON: Got to eat.

4 MR. WESTFALL: There can be a distinction
5 between liking a job and got to eat.

6 VENIRE PERSON: Well, I do enjoy it.

7 Play poker. I like visiting my kids, my girls.
8 I have three daughters. My granddaughter, I love seeing
9 her. Just mostly family stuff and things like that.

10 MR. WESTFALL: You like to hunt and fish or do
11 anything like that regularly?

12 VENIRE PERSON: I ride a Harley.

13 MR. WESTFALL: What kind?

14 VENIRE PERSON: Soft Tail Night Train.

18:00 15 MR. WESTFALL: Excellent. Do you do that on the
16 weekends or any chance --

17 VENIRE PERSON: Any chance, yes.

18 MR. WESTFALL: This case involves Muslim men who
19 were charged with giving material support, accused of
20 giving material support to a terrorist organization. Now,
21 you mentioned 9-11. And that had a deep impact on all of
22 us in the United States, and I remember where I was when
23 the Towers went down.

24 VENIRE PERSON: I do, too.

25 MR. WESTFALL: But here we are. This is a

18:00 1 criminal case, and everyone is supposed to have the
2 presumption of innocence and the burden of proof being
3 beyond a reasonable doubt. The government has to prove
4 those allegations or else the presumption of innocence
5 alone is sufficient to acquit. Those are the same kind of
6 protections that we would have in a car theft case, a drug
7 possession case and in this case material support of
8 terrorism. How do you feel about that?

9 VENIRE PERSON: I feel like we have it pretty
10 good, probably better than anything else, and I feel okay
11 with it.

12 MR. WESTFALL: You think that's fair?

13 VENIRE PERSON: Yes.

14 MR. WESTFALL: Why do you suppose we have those
18:00 15 protections?

16 VENIRE PERSON: Absolutely for fairness, I
17 imagine. To make sure that it's fair for everybody.

18 MR. WESTFALL: It's a very emotional subject for
19 virtually anyone in the United States, me included.
20 Everyone was touched by that.

21 VENIRE PERSON: Right.

22 MR. WESTFALL: Have you kept up at all with the
23 Palestinian-Israeli conflict?

24 VENIRE PERSON: I'm not a big paper reader or
25 anything like that, and I don't have the internet. So if

18:00 1 I don't hear it on talk radio, I don't know anything about
2 it.

3 MR. WESTFALL: What kind of radio do you listen
4 to?

5 VENIRE PERSON: KABP and KRLD.

6 MR. WESTFALL: There is a wide range on both of
7 those stations. Which do you like?

8 VENIRE PERSON: I listen to the news in the
9 morning. I don't hardly ever listen to the talk shows.
10 In the afternoon, I listen to country music when I'm going
11 home. The talk shows, I have listened to them, and the
12 left talks about the right, and the right talks about the
13 left, and that's all I get out of it.

14 MR. WESTFALL: You don't like to get into all of
18:00 15 that?

16 VENIRE PERSON: Right.

17 MR. WESTFALL: And if it comes between spending
18 your time with your daughter or learning about the
19 Palestinian-Israeli conflict, you would probably make the
20 choice I did.

21 VENIRE PERSON: I would be at my daughter's
22 house with my grandkid.

23 MR. WESTFALL: You checked that noncitizens
24 should not be afforded the same rights as citizens.

25 VENIRE PERSON: I checked that?

18:00 1 MR. WESTFALL: So I'm gathering you didn't check
2 it on purpose.

3 VENIRE PERSON: I don't remember checking that.

4 MR. WESTFALL: Do you have any -- We're talking
5 legal resident aliens.

6 VENIRE PERSON: I must have thought it said
7 illegal. No, I don't.

8 MR. WESTFALL: Very well. You have been here
9 two days now. Is there anything I haven't asked you?
10 Anything coming up in your life that we don't know about?
11 This is a four month long trial.

12 VENIRE PERSON: No. You know -- I don't
13 remember if I called and changed this or not, but it asked
14 something on there about have you been arrested for
18:00 15 something you could get a year in jail for. I might have
16 checked yes, but it's no. I have a pending DWI.

17 MR. WESTFALL: Unless it's a felony DWI 3rd, you
18 can't get more than a year in jail.

19 VENIRE PERSON: And I didn't know what the
20 correct answer would be. So I put the worst to make sure
21 I wasn't going the wrong way.

22 MR. WESTFALL: Very well. Thank you for
23 speaking with me, and that's not going to be a problem.

24 VENIRE PERSON: All right.

25 THE COURT: Counsel for the government have

18:00 1 questions for Mr. McGahan?

2 MR. GARRETT: Yes, your Honor.

3 Good morning, Mr. McGahan. My name is Nathan
4 Garrett, and I'm an Assistant United States Attorney with
5 the United States Attorney's Office. I will be one of the
6 prosecutors over here representing the United States, and
7 I thank you for your patience. We're not very quick about
8 this. I notice -- I think Mr. Westfall asked you, you
9 have three daughters. Is that right?

10 VENIRE PERSON: Yes.

11 MR. GARRETT: And you still came out of that
12 with a Harley Davidson?

13 VENIRE PERSON: Well, I just got it.

14 MR. GARRETT: So you were patient about it?

18:00 15 VENIRE PERSON: Right. I waited.

16 MR. GARRETT: You said a Night Train, right?

17 VENIRE PERSON: Yes.

18 MR. GARRETT: You like the new bikes or old
19 bikes best?

20 VENIRE PERSON: I like the new balanced one.

21 MR. GARRETT: The Fly Wheels?

22 VENIRE PERSON: Yes, sir.

23 MR. GARRETT: You were with UPS twenty-three
24 years?

25 VENIRE PERSON: Yes.

18:00 1 MR. GARRETT: I can't do the math that quickly.

2 What did you do before UPS?

3 VENIRE PERSON: Only had six years from high
4 school. Actually went to Texas Instruments for three
5 months. I couldn't afford to work there, and then I went
6 to a place called Gardner Denver which was based here in
7 Dallas, and they made oil well and water well rigs, and I
8 was there five years, and you know what happened to the
9 oil business, and that was the end of that, and there was
10 a couple of years I worked little jobs, and when I had a
11 chance to get on with UPS, I did that.

12 MR. GARRETT: Have you always been here?

13 VENIRE PERSON: I have always been a delivery
14 driver starting from Mesquite, Texas going east.

18:00 15 MR. GARRETT: And looks like on your
16 questionnaire, you have lived in this area your whole
17 life.

18 VENIRE PERSON: Born on Ross Avenue in Dallas.

19 MR. GARRETT: So all in Dallas?

20 VENIRE PERSON: Dallas and east because I lived
21 in Kaufman County.

22 MR. GARRETT: Okay. Moved to the country?

23 VENIRE PERSON: Yes.

24 MR. GARRETT: Now, on your prior jury service --
25 Have you had any prior jury service?

18:00 1 VENIRE PERSON: I just served on a jury in
2 Kaufman County.

3 MR. GARRETT: Was that a civil case?

4 VENIRE PERSON: Civil case.

5 MR. GARRETT: Kaufman County?

6 VENIRE PERSON: Yes.

7 MR. GARRETT: Have you ever been called down
8 other than that time where you served in a jury pool like
9 you are right now?

10 VENIRE PERSON: Kaufman either three or four
11 times in the last six years.

12 MR. GARRETT: Anything in Dallas?

13 VENIRE PERSON: Never in Dallas.

14 MR. GARRETT: Is this your first experience
18:00 15 coming down to federal court?

16 VENIRE PERSON: Oh, yes.

17 MR. GARRETT: You mentioned a couple of things,
18 on prior involvement with the law. You mentioned with Mr.
19 Westfall that you had a pending DUI right now?

20 VENIRE PERSON: Yes.

21 MR. GARRETT: Is that in Kaufman or --

22 VENIRE PERSON: Yes.

23 MR. GARRETT: Is that pending in the courts
24 right now?

25 VENIRE PERSON: It's due to come up for a jury

18:00 1 trial August the 6th, is the last date I have heard that
2 was set.

3 MR. GARRETT: Is there anything about that --
4 And I'm sorry to pry about that. Awful nosey. But is
5 there anything about that that would give you some
6 problems sitting fairly and impartially in this case and
7 being fair to the government and defendants?

8 VENIRE PERSON: No. Every situation you run
9 across, there is going to be differences.

10 MR. GARRETT: Also, I saw where you mentioned
11 that your girlfriend had an incident sometime ago, an
12 arson-related situation?

13 VENIRE PERSON: Yes.

14 MR. GARRETT: Was that something that ended up
18:00 15 going to trial or how was it disposed of?

16 VENIRE PERSON: She pled to get probation.

17 THE DEFENDANT: Was that here in Dallas or --

18 VENIRE PERSON: Kaufman.

19 MR. GARRETT: How long ago was that?

20 VENIRE PERSON: Two and a half, three years ago.

21 MR. GARRETT: Is there anything about that that
22 would give you a problem in this case?

23 VENIRE PERSON: No, that was something she
24 handled on her own. I wasn't involved in any of it.

25 MR. GARRETT: But from what you observed, do you

18:00 1 believe she was treated fairly?

2 VENIRE PERSON: Yes.

3 MR. GARRETT: Now, when you were serving on this
4 jury --

5 VENIRE PERSON: Well, let me clarify. I was the
6 second alternate. I sat and listened, and then I had to
7 go home.

8 MR. GARRETT: Not all bad?

9 VENIRE PERSON: No.

10 MR. GARRETT: At the end of this case, if you
11 are selected to serve on jury, the Judge will issue you
12 instructions, and the instructions will tell you what the
13 law is, and you will take the facts and apply them to the
14 law. As we mentioned to you, the central allegation in
15 this case is these defendants knowingly provided material
16 support to a terrorist organization, HAMAS. I can't
17 remember if he asked you or not. Have you ever heard of
18 HAMAS?

19 VENIRE PERSON: Just in the news.

20 MR. GARRETT: And I expect those instructions
21 will tell you that HAMAS is a foreign terrorist
22 organization. And I think the Judge will also tell you
23 that as a result of that designation one cannot knowingly
24 send any support to that organization -- money, but also
25 things that you might think of as humanitarian items,

18:00 1 clothing, blankets, medical supplies, any of those sorts
2 of things -- if it's to or for the benefit of a terrorist
3 organization. Do you understand that?

4 VENIRE PERSON: Yes.

5 MR. GARRETT: Is that an instruction you would
6 have a problem following?

7 VENIRE PERSON: No.

8 MR. GARRETT: Thank you for your time and
9 patience.

10 THE COURT: Mr. McGahan, we are in the process
11 of talking with the members of the pool from which the
12 jury will be selected that would hear this case. I expect
13 that process will continue for a while longer today. So
14 until you hear from us, you should not discuss the case
18:00 15 with anyone or allow anyone to discuss it with you.

16 And if there are any media accounts about the
17 case on the television or in the newspapers or on the
18 radio, you should not read or watch or listen to any of
19 those media accounts. Thank you, sir. You may be
20 excused.

21 Good morning, Ms. Hilton. Counsel for the
22 parties have some questions they would like to ask you.
23 Ms. Moreno.

24 MS. MORENO: Good morning, my name is Linda
25 Moreno. I'm one of the defense attorneys in this case. I

18:00 1 am going to ask you some questions just for a few minutes
2 about some of the answers that you filled out on your
3 questionnaire and also if you have heard anything about
4 this case. This case involves an American Muslim charity
5 called the Holy Land Foundation. Have you heard of the
6 Holy Land Foundation?

7 VENIRE PERSON: Heard of it.

8 MS. MORENO: In the press?

9 VENIRE PERSON: Yes.

10 MS. MORENO: And where did you hear it?

11 VENIRE PERSON: In the press, the media.

12 MS. MORENO: Do you recall what you heard about
13 it?

14 VENIRE PERSON: Not really.

18:00 15 MS. MORENO: Was that recently? Some years back
16 or when?

17 VENIRE PERSON: I saw an article in the
18 newspapers on Tuesday.

19 MS. MORENO: Did you read the article?

20 VENIRE PERSON: Yes.

21 MS. MORENO: I'm sure you read in the article
22 that this case involves allegations of material support of
23 terrorism.

24 VENIRE PERSON: Yes.

25 MS. MORENO: So let me ask you right off the

18:00 1 bat. Knowing this case is going to be a trial regarding
2 allegations of support of terrorism, how do you feel about
3 sitting on a case like that?

4 VENIRE PERSON: I don't really believe I would
5 be comfortable with it.

6 MS. MORENO: Now, we're here to explore those
7 feelings that all of these jurors may or may not have
8 because everybody in this courtroom -- his Honor and the
9 defense, the government -- wants jurors who could be fair.
10 So I'm asking you, do you have any opinions that you
11 believe would prevent you from being fair and impartial?

12 VENIRE PERSON: I really -- I'm not sure.

13 MS. MORENO: Okay.

14 VENIRE PERSON: I'm afraid after 9-1 -- As leery
18:00 15 as a lot of Americans are.

16 MS. MORENO: Yes, ma'am. I can appreciate that,
17 and that leeryness that you have is something we need to
18 know a little bit about to determine if you could be fair
19 in this case. What we need are jurors who can be fair and
20 jurors who are not concerned. So forgive me for pushing
21 and exploring. I know it's a bit of an invasion of
22 privacy, but as I said, there are no right or wrong
23 answers here, and we need to hear from you what your
24 feelings are in this regard.

25 VENIRE PERSON: I don't feel it's an invasion.

18:00 1 I feel like my father and others who have died for my
2 right to be able to sit here deserve the pushing you have
3 to do to be sure that you come up with a jury that will be
4 fair.

5 MS. MORENO: Do you think, Ms. Hilton, that you
6 could sit on a jury in this case and be fair?

7 VENIRE PERSON: I am not at all sure that I
8 could be completely fair in a terrorism case, no.

9 MS. MORENO: Do you understand that even though
10 it's a terrorism case it's still a criminal case under the
11 laws of America and the jurors have to be fair when they
12 come in?

13 VENIRE PERSON: They are innocent until proven
14 guilty. I'm afraid my own feelings of terrorism would
18:00 15 color my hearing. I don't know how to say it better.

16 MS. MORENO: If I can help you just a little
17 bit. I think what I hear you saying is that given your
18 feelings, that you couldn't put those feelings aside and
19 give these gentlemen one hundred percent the presumption
20 of innocence to which they are required?

21 VENIRE PERSON: I don't know that I could.

22 MS. MORENO: And it seems to me that is a hard
23 felt opinion. Am I right about that?

24 VENIRE PERSON: As I said, I have family that
25 have died or been hurt -- as I'm sure most of you have --

18:00 1 for the rights I am entitled to today for their suffering.
2 So yes, I feel strongly about their right to a fair trial,
3 but I think I feel so strongly about terrorism that I'm
4 not sure I could do it, and I don't think I would want
5 somebody like me judging me, not in this instance.

6 MS. MORENO: It's been a privilege to talk to
7 you. Thank you so much. Pass the witness.

8 THE COURT: Counsel for the government have
9 questions for Ms. Hilton.

10 MS. SHAPIRO: No, your Honor.

11 THE COURT: Ms. Hilton, we are in the process of
12 talking to the members of the pool from which the jury
13 will be selected that would hear this case. That process
14 will go on for a while longer today, and so until you hear
18:00 15 from us again, you should not discuss the subject of this
16 trial with anyone or allow anyone to discuss it with you.
17 And if there are any media accounts about the case in the
18 newspapers or on the television or radio, you should not
19 read or watch or listen to those accounts.

20 VENIRE PERSON: I do have a question if I may.
21 My personal situation has changed since I came down on the
22 27th with the first call. My husband will be eighty in
23 September. He does have some dementia. He saw the doctor
24 the morning I came down, and I normally go with him to
25 doctor's appointments. I went and spoke to Dr. Pat, and a

18:00 1 couple of days after that he says my husband should not be
2 allowed to remain unattended for very long at a time, he
3 should not be on his own too much, and I really feel like
4 my situation has changed such that I am a care giver to a
5 dependent senior.

6 THE COURT: Thank you, Ms. Hilton. I think all
7 of us appreciate your taking the time to be down here
8 today given the other demands from your husband's
9 situation.

10 MS. MORENO: Your Honor, on behalf of the
11 defense we would move for a cause challenge against Ms.
12 Hilton. She could not be fair and impartial.

13 THE COURT: Any objection, Ms. Shapiro?

14 MS. SHAPIRO: No objection.

18:00 15 THE COURT: I will excuse Ms. Hilton for cause.

16 Good morning, Mr. Matthews. Counsel for the
17 parties have some questions for you.

18 MR. WESTFALL: Mr. Matthews, good morning. I'm
19 Greg Westfall. How you doing?

20 VENIRE PERSON: All right.

21 MR. WESTFALL: I'm one of the defense lawyers in
22 this case. Thank you for coming up here. I know you
23 probably had to sit here all day yesterday. Thank you for
24 that, and this is your last day of sitting and waiting.

25 This case is the Holy Land Foundation case,

18:00 1 United States versus Holy Land Foundation. Does that ring
2 a bell?

3 VENIRE PERSON: Yes.

4 MR. WESTFALL: Tell me what you have heard.

5 VENIRE PERSON: I don't know much. Looking
6 through the news I have heard of it. Don't know any
7 details or anything.

8 MR. WESTFALL: Well, it is a case that involves
9 an American Muslim charity. Used to be in Richardson,
10 Texas. And the government is alleging the charity and
11 some of the men involved with the charity gave material
12 support to HAMAS. You have heard of HAMAS?

13 VENIRE PERSON: Yes.

14 MR. WESTFALL: The actual title is material
15 support to a foreign terrorist organization. Having heard
16 that and what you have heard on the news, have you formed
17 an opinion to the guilt or innocence of the defendants or
18 anyone else?

19 VENIRE PERSON: Honestly I won't even buy gas if
20 they are behind the counter. I go to the next gas station
21 or whatever.

22 MR. WESTFALL: In a criminal jury and in a civil
23 jury, too, which is what we're talking about here, a
24 person who's on the jury has to be able to clear their
25 mind of all experiences and be able to judge just based

18:00 1 upon the evidence and the facts in court. I mean every
2 jury is as different as every case is. It sounds like in
3 this case because of the terrorism issue and because of
4 the Muslim issue you would have trouble doing that.

5 VENIRE PERSON: Yes.

6 MR. WESTFALL: So you are telling us you could
7 not set that aside and fairly judge the case on the facts?

8 VENIRE PERSON: No.

9 THE COURT: Counsel for the government have
10 questions for Mr. Matthews?

11 MS. SHAPIRO: No, your Honor.

12 THE COURT: Mr. Matthews, we are in the process
13 of talking with the members of the pool from which the
14 jury in this case will be selected. I expect that process
18:00 15 will continue later on today. In the meantime, until you
16 hear from us further, you should not discuss the subject
17 of this case with anyone or allow anyone to discuss it
18 with you.

19 VENIRE PERSON: Yes, sir.

20 THE COURT: And if there are any media accounts
21 about this case on the television or in the newspapers or
22 on the radio, you should not read or watch or listen to
23 any of those media accounts.

24 VENIRE PERSON: Okay.

25 THE COURT: Thank you, you may be excused.

18:00 1 MR. WESTFALL: Your Honor, the defense will
2 submit Mr. Matthews for his inability to be fair and
3 impartial because of the Muslim issue, that he cannot set
4 it aside.

5 THE COURT: Any objections?

6 MS. SHAPIRO: No, your Honor.

7 THE COURT: I will excuse Mr. Matthews for
8 cause.

9 Good morning, Mr. Erbert. Counsel for the
10 parties have some questions for you.

11 MR. WESTFALL: Mr. Erbert, I'm Greg Westfall.
12 I'm one of the defense lawyers in this case. Thank you
13 for the time you spent waiting to talk to us. You
14 answered Question Number 40 on the questionnaire that said
18:00 15 you had travel plans on July 26 and 29 that you will not
16 cancel.

17 VENIRE PERSON: I would rather not. I'll lose
18 the money. It's paid for.

19 MR. WESTFALL: Tell us a little bit about it.
20 How long have you had the tickets? Where are you going?

21 VENIRE PERSON: Going to Vegas to see friends we
22 haven't seen in twenty years, and we made the plans in
23 February and we fly out Sunday.

24 MR. WESTFALL: You should have received a
25 questionnaire about hardship.

18:00 1 VENIRE PERSON: I did put it on there.

2 MR. WESTFALL: So you submitted early and

3 submitted often?

4 VENIRE PERSON: Yes, sir. And that's really my

5 only issue is that Thursday. I don't know if court is in

6 session on that Friday.

7 MR. WESTFALL: So that's like a Thursday,

8 Friday, Saturday, Sunday?

9 VENIRE PERSON: Yes.

10 MR. WESTFALL: We will let the Court decide

11 that. This case is about the United States versus the

12 Holy Land Foundation for Relief and Development. Does

13 that ring any bells?

14 VENIRE PERSON: Just on the questionnaire. I

18:00 15 think they mentioned that in there, but that was it.

16 MR. WESTFALL: It was an American Muslim charity

17 that is charged with giving material support to HAMAS

18 which is a foreign terrorist organization. Having heard

19 that, does that ring any bells? Have you heard about it

20 in the media?

21 VENIRE PERSON: I think Tuesday while getting

22 ready for work they said the trial was about to begin, but

23 that was all that was said.

24 MR. WESTFALL: Well, from any source, whether it

25 be TV or conversations with anyone, have you formed any

18:00 1 opinions as to the guilt or innocence of anyone?

2 VENIRE PERSON: No.

3 MR. WESTFALL: Did you say you follow the
4 Palestinian-Israeli conflict?

5 VENIRE PERSON: Not really follow it. I have
6 heard about it on the news.

7 MR. WESTFALL: Do you have any sense about who's
8 right or wrong?

9 VENIRE PERSON: Honestly, if it doesn't affect
10 me immediately, I can't pay too much attention.

11 MR. WESTFALL: You were in the Navy?

12 VENIRE PERSON: Yes.

13 MR. WESTFALL: Were you a SEAL?

14 VENIRE PERSON: No.

18:00 15 MR. WESTFALL: I saw all the places you have
16 been. Sierra Leone?

17 VENIRE PERSON: Yes, it was mostly volunteering
18 reserve to go all of these places.

19 MR. WESTFALL: What did you do?

20 VENIRE PERSON: Supply. And Sierra Leone was
21 helping to get the refugees to Monrovia.

22 MR. WESTFALL: And Bahrain?

23 VENIRE PERSON: Supply.

24 MR. WESTFALL: Were you working with refugees
25 there?

18:00 1 VENIRE PERSON: No. 1992 -- I forget when it
2 was. Just helping get the compound ready.

3 MR. WESTFALL: What kind of compound?

4 VENIRE PERSON: Just supply.

5 MR. WESTFALL: How many missions have you done
6 where you actually helped refugees?

7 VENIRE PERSON: One. It was an eye opener, the
8 conditions over there.

9 MR. WESTFALL: Tell me more.

10 VENIRE PERSON: Third world country, the
11 poverty. The first couple of weeks was really stressful
12 but really enjoyed it.

13 MR. WESTFALL: Did you feel like you were
14 helping the people?

18:00 15 VENIRE PERSON: Yes.

16 MR. WESTFALL: Were you able to communicate?
17 Did you use translators?

18 VENIRE PERSON: No, we had a local who assisted
19 us with everything, and he would take us sightseeing and
20 explain the sites and explain the culture. But after a
21 couple of weeks, the heat and bugs. I really enjoyed it.

22 MR. WESTFALL: Did you see any other relief
23 agencies working in there?

24 VENIRE PERSON: If I did, it would have been
25 just in passing, a UN truck or something passing by, but

18:00 1 never dealt with them directly.

2 MR. WESTFALL: You never felt any call to go
3 work with relief?

4 VENIRE PERSON: After that I wouldn't have
5 minded going back, but then the wife has concerns, not
6 wanting to do all of that anymore.

7 MR. WESTFALL: She didn't like sleeping under
8 mosquito nets?

9 VENIRE PERSON: No, me being gone.

10 MR. WESTFALL: So there was no issue with her
11 going with you?

12 VENIRE PERSON: That might be an issue.

13 MR. WESTFALL: Where are you an IT manager?

14 VENIRE PERSON: I work for a computer contractor
18:00 15 out of Lockheed Martin in Fort Worth.

16 MR. WESTFALL: You work in Fort Worth. Quite a
17 drive?

18 VENIRE PERSON: Yes.

19 MR. WESTFALL: On the side where you need a
20 security clearance?

21 VENIRE PERSON: Yes.

22 MR. WESTFALL: And do you have an active
23 security clearance right now?

24 VENIRE PERSON: Yes, I do.

25 MR. WESTFALL: This is a case obviously

18:00 1 involving Muslim men who were accused of giving material
2 support to a terrorist organization. You have heard of
3 HAMAS?

4 VENIRE PERSON: Yes.

5 MR. WESTFALL: How do you feel about being on a
6 jury like that. Do you have any issues? If you were in
7 their place, would you want you on the jury?

8 VENIRE PERSON: I think probably some former
9 military might have an opinion towards certain issues, but
10 honestly, like I said, I haven't followed it so I don't
11 know all the details.

12 MR. WESTFALL: Well, might form an opinion on
13 certain issues. Well, in a criminal case you have to make
14 a decision just based on the evidence in court, one
18:00 15 hundred percent. And everyone has opinions. The test is
16 can you set those opinions aside and judge the evidence
17 only. That's the only way anyone gets a fair trial.
18 That's the way we keep people from going to prison. So
19 you are the only one that can answer it. I'm not sure of
20 the issue you were talking about, but if there is an
21 issue, can you set that aside and judge this case fairly
22 on the facts?

23 VENIRE PERSON: I believe so.

24 MR. WESTFALL: What is the issue? You said
25 military issues.

18:00 1 VENIRE PERSON: Just -- I guess military minded
2 you are so against terrorism and all of that and to get
3 out of that frame of mind and listen to the evidence
4 instead of being told these are bad people.

5 MR. WESTFALL: Are you still in the military?

6 VENIRE PERSON: No.

7 MR. WESTFALL: Why did you join the military?

8 VENIRE PERSON: I was seventeen and a half,
9 needed direction. And then after about ten years, I felt
10 I had that direction and also got married.

11 MR. WESTFALL: It seems like regardless how old
12 we are when we join we get this sense that we're doing a
13 very good thing if we're in the military. Did you have
14 that sense?

18:00 15 VENIRE PERSON: Yes, not at first. Being in
16 supplies, how am I helping out, and that's when I
17 volunteered to go to other places. I'm sorry.

18 I did state something wrong. The refugees, the
19 Haitian refugees.

20 THE COURT: Mr. Westfall, your time has expired.

21 MR. WESTFALL: Thank you.

22 THE COURT: Mr. Jonas, do you have questions for
23 Mr. Erbert?

24 MR. JONAS: Yes. My name is Barry Jonas, and I
25 have a few questions to follow-up. I want to thank for

18:00 1 your patience yesterday. Very frustrating waiting outside
2 the door and not knowing what was going on. You lived in
3 Canada. How did that come about?

4 VENIRE PERSON: My parents sitting around the
5 table and there was a discussion and talking about
6 Montana, and somebody said why don't we move to Canada. I
7 think there was some alcohol involved.

8 MR. JONAS: How was that?

9 VENIRE PERSON: Big climate change and I really
10 enjoyed it, but since I have been back since 1989 I'm
11 enjoying it.

12 MR. JONAS: Enjoying the weather?

13 VENIRE PERSON: Not the heat, no. I enjoy the
14 winters.

18:00 15 MR. JONAS: If there was no court on Friday,
16 would you be able to change your flight to later in the
17 day on Thursday?

18 VENIRE PERSON: Probably could, yes. Again,
19 it's next Thursday. So I don't know if it would be
20 possible, but I'm sure we could.

21 MR. JONAS: You mentioned that you have heard of
22 HAMAS. What do you know about them?

23 VENIRE PERSON: Supposedly they are a terrorist
24 organization. I don't know if they took over the
25 government or something. I don't know the whole story.

18:00 1 That's all I really know.

2 MR. JONAS: Well, this case involves -- The
3 allegations are the Holy Land Foundation and some of the
4 men who ran it supplied money and other items to HAMAS.
5 And we expect at the end of the evidence the Judge is
6 going to charge the jury that HAMAS is a terrorist
7 organization designated by the U.S. government. And
8 giving anything to HAMAS is illegal, regardless of what it
9 is. So if HAMAS uses that money for schools and other
10 good things, if you found the defendants gave money for
11 HAMAS, even if that money was for a good thing, would you
12 be able to follow that instruction and find them guilty?

13 VENIRE PERSON: If knowingly done, yes.

14 MR. JONAS: Thank you, your Honor.

18:00 15 THE COURT: Mr. Erbert, we're in the process of
16 talking with the members of the pool from which the jury
17 will be selected that would hear this case. I expect that
18 process will continue for a while longer today. Until you
19 hear from us further, you should not discuss this case
20 with anyone or allow anyone to discuss it with you, and if
21 there are any media accounts about this case on the
22 television or in the newspapers or on radio, you should
23 not read or watch or listen to any of those media
24 accounts. Thank you, sir. You may be excused.

25 Good morning, Ms. Moreno. Counsel for the

18:00 1 parties have some questions for you.

2 MR. WESTFALL: Mr. Moreno, how you doing. My
3 name is Greg Westfall. I'm one of the defense lawyers in
4 this case, and I want to talk to you a few minutes.

5 VENIRE PERSON: Okay.

6 MR. WESTFALL: Thanks a lot for coming down and
7 all the time you spent here waiting.

8 VENIRE PERSON: No problem.

9 MR. WESTFALL: This case is the Holy Land
10 Foundation case, United States versus Holy Land
11 Foundation. It involves an American Muslim charity that
12 is accused of material support of a terrorist
13 organization, specifically HAMAS. Does that ring any
14 bells with you?

18:00 15 VENIRE PERSON: No.

16 MR. WESTFALL: Have you read anything about it
17 in the paper or anything?

18 VENIRE PERSON: No.

19 MR. WESTFALL: You just graduated with a degree
20 in photography?

21 VENIRE PERSON: Yes.

22 MR. WESTFALL: You are still looking for a job?

23 VENIRE PERSON: Yes.

24 MR. WESTFALL: What are you looking for?

25 VENIRE PERSON: A job with a photographer. More

18:00 1 commercial work, not really dealing with weddings.

2 MR. WESTFALL: So product shots?

3 VENIRE PERSON: Yes.

4 MR. WESTFALL: Why a degree in photography?

5 VENIRE PERSON: In my high school you have to
6 have an elective, and mine was photography. So I stuck to
7 it throughout.

8 MR. WESTFALL: Do you carry equipment with you
9 all the time in case you see a good shot?

10 VENIRE PERSON: I have a little point and shoot
11 camera with me.

12 MR. WESTFALL: What kind of camera, Canon or
13 Nikon?

14 VENIRE PERSON: Nikon. My friends say I should
18:00 15 switch.

16 MR. WESTFALL: That's like Chevrolet and Ford,
17 perennial argument. You also majored in business?

18 VENIRE PERSON: Yes.

19 MR. WESTFALL: The bachelor of science would
20 have been the photography aspect?

21 VENIRE PERSON: Yes.

22 MR. WESTFALL: And what did you do in business,
23 a lot of econ or something?

24 VENIRE PERSON: It was a double major, both in
25 photography and business administration. The main goal

18:00 1 that I wanted to have was to open my own studio. So I
2 figured I needed some business background.

3 MR. WESTFALL: Do you know any Muslim people?

4 VENIRE PERSON: No.

5 MR. WESTFALL: Have you ever?

6 VENIRE PERSON: No.

7 MR. WESTFALL: Let's open it up a little bit
8 like Arabs. Have you had any experience with them?

9 VENIRE PERSON: No.

10 MR. WESTFALL: This is a case where Muslim men
11 are accused of supporting HAMAS. Have you heard of HAMAS?

12 VENIRE PERSON: No.

13 MR. WESTFALL: Do you follow the
14 Palestinian-Israeli conflict at all?

18:00 15 VENIRE PERSON: No.

16 MR. WESTFALL: How do you feel about being on a
17 jury that has Muslim men and something about terrorism?

18 VENIRE PERSON: I don't really have any feelings
19 either way.

20 MR. WESTFALL: How do you feel about freedom of
21 speech?

22 VENIRE PERSON: I'm for it. It's important that
23 we have it so that we can express --

24 MR. WESTFALL: Have you ever followed any of
25 Robert Mapplethorpe's work?

18:00 1 VENIRE PERSON: No.

2 MR. WESTFALL: Are you aware of him?

3 VENIRE PERSON: I am.

4 MR. WESTFALL: Do you think if someone wants to

5 go buy a Robert Maplethorpe book they should be able to?

6 VENIRE PERSON: Yes.

7 MR. WESTFALL: In this case, there will be

8 evidence of statements highly critical of Israel and

9 highly critical of the United States. Is that something

10 you could hear and judge the case on the facts?

11 VENIRE PERSON: Yes.

12 MR. WESTFALL: That falls under freedom of

13 speech?

14 VENIRE PERSON: Yes.

18:00 15 MR. WESTFALL: You are hesitating. Are you just

16 digesting it?

17 VENIRE PERSON: I'm just thinking about the

18 question.

19 MR. WESTFALL: Are you involved in a church?

20 VENIRE PERSON: No.

21 MR. WESTFALL: Did you grow up in a church?

22 VENIRE PERSON: No.

23 MR. WESTFALL: Where did you grow up?

24 VENIRE PERSON: I grew up in Pleasant Grove. I

25 lived there all of my life. My parents, they were

18:00 1 Catholic, but we didn't really follow it, at least in my
2 house.

3 MR. WESTFALL: So you haven't studied Islam or
4 anything like that?

5 VENIRE PERSON: I don't know. Nothing really
6 comes to mind. Israel.

7 MR. WESTFALL: Israel?

8 VENIRE PERSON: Yes.

9 MR. WESTFALL: Islam is a religion you know.

10 VENIRE PERSON: (Witness nods)

11 MR. WESTFALL: Do you have any questions or
12 anything you are wanting to tell the Court?

13 VENIRE PERSON: No.

14 MR. WESTFALL: You are okay with four months of
15 service?

16 VENIRE PERSON: Yes.

17 MR. WESTFALL: Thank you.

18 THE COURT: Counsel for the government have
19 questions of Ms. Moreno?

20 MR. JACKS: Yes, your Honor. Thank you.

21 Good morning, Ms. Moreno. My name is Jim Jacks.
22 I'm an Assistant United States Attorney for the Northern
23 District of Texas, and I will be one of the prosecutors
24 representing the government during this trial. I also
25 want to express my appreciation for your patience in

18:00 1 waiting for us. I have a few questions, if I may. You
2 told us you were born and raised in Dallas. This is where
3 you grew up?

4 VENIRE PERSON: Yes.

5 MR. JACKS: Where did you go to high school?

6 VENIRE PERSON: Skyline High School.

7 MR. JACKS: And your college degree, where did
8 you receive your college degree from?

9 VENIRE PERSON: I went to Eastfield Community
10 College three years, and then I moved to Texas A & M in
11 Commerce and finished there.

12 MR. JACKS: Was that for a year or --

13 VENIRE PERSON: Two and a half years.

14 MR. JACKS: Did you work while going through
15 school?

16 VENIRE PERSON: No, not at all.

17 MR. JACKS: Right now, do you live at home or
18 have your own place?

19 VENIRE PERSON: I live at home.

20 MR. JACKS: What does your father do?

21 VENIRE PERSON: He works with computers, ACS.

22 MR. JACKS: What does he do for them?

23 VENIRE PERSON: They do like programs. I'm not
24 even sure. Businesses -- What's that food chain? Burger
25 King, Zales -- they hire them to run their computers for

18:00 1 programs and make sure everything runs properly.

2 MR. JACKS: How about your mother? Does she
3 work outside the home?

4 VENIRE PERSON: Yes, 7-11.

5 MR. JACKS: How long has she done that?

6 VENIRE PERSON: Five years. Maybe six or seven.

7 MR. JACKS: What part of town is her store in?

8 VENIRE PERSON: She works at the corporation.

9 It used to be at -- They moved it recently to first
10 something.

11 MR. JACKS: Was that at City Place?

12 VENIRE PERSON: Yes, but then they moved.

13 MR. JACKS: What does she do in the corporate
14 office?

18:00 15 VENIRE PERSON: She orders equipment. She works
16 for like a division. So a group of states. So whenever
17 they need to order equipment for the 7-11 stores, that's
18 what she does.

19 MR. JACKS: Like a purchasing department?

20 VENIRE PERSON: Yes.

21 MR. JACKS: Before she worked for Southland
22 Corporation or whatever it's called, where did she work?

23 VENIRE PERSON: At the Buckner Animal Clinic.
24 It's right there by the house. She worked there while I
25 was in middle school. Close by.

18:00 1 MR. JACKS: How many brothers and sisters do you
2 have?

3 VENIRE PERSON: I only have one brother, older.

4 MR. JACKS: Is he still in Dallas?

5 VENIRE PERSON: Yes.

6 MR. JACKS: What does he do for a living?

7 VENIRE PERSON: He works for Chase. Does
8 something with making credit cards.

9 MR. JACKS: I take it this is your first time
10 ever to be summoned for jury duty?

11 VENIRE PERSON: Not my first time but the first
12 time here.

13 MR. JACKS: Was the previous summons at the
14 Frank Crowley Courthouse?

18:00 15 VENIRE PERSON: Yes.

16 MR. JACKS: From your questionnaire, it looks
17 like you actually didn't end up on the jury.

18 VENIRE PERSON: No.

19 MR. JACKS: Was that a criminal case that you
20 were summoned for?

21 VENIRE PERSON: I think it was a civil case.

22 MR. JACKS: Somebody suing somebody else?

23 VENIRE PERSON: Yes.

24 MR. JACKS: Do you follow the news very much?

25 VENIRE PERSON: No.

18:00 1 MR. JACKS: Do you read the newspapers on a
2 regular basis?

3 VENIRE PERSON: No.

4 MR. JACKS: Do you get the news off the internet
5 ever?

6 VENIRE PERSON: Sometimes.

7 MR. JACKS: Your job search, how long has that
8 been going on?

9 VENIRE PERSON: Probably three months.

10 MR. JACKS: In your photography, is a lot of
11 that changing now with digital photography?

12 VENIRE PERSON: Well, what they taught us in
13 school, it was pretty much digital. But I know the
14 program that I just got finished with, the whole school is
18:00 15 changing to digital.

16 MR. JACKS: You work with Photo Shop?

17 VENIRE PERSON: Yes.

18 MR. JACKS: As was explained to you, the lead
19 charge or principal charge is that the Holy Land
20 Foundation and these men that work for that foundation are
21 accused of providing material support to a foreign
22 terrorist organization, specifically HAMAS. At the end of
23 the case when the parties have presented all the evidence
24 and witnesses that they want to present, at that time the
25 Judge will instruct the jury on what the law is that

18:00 1 applies to the case, and he will read the instructions,
2 and you will have a copy when you deliberate. I expect in
3 his instructions the Judge will tell you what the
4 government has to prove to prove a person guilty of this
5 charge, and I expect included in those instructions will
6 be a statement or instruction that HAMAS has been
7 designated by the U.S. government as a foreign terrorist
8 organization. I also expect he would have an instruction
9 in there that will say under the law in the United States
10 you cannot give anything to or for the benefit of a
11 foreign terrorist organization, and that includes even so
12 called charitable things -- books or medical supplies,
13 food, clothing, that type of thing. To give that is also
14 a violation of the law. Do you have any disagreement with
18:00 15 that part of the law? And if you do -- Let me ask you, do
16 you have any disagreement with that part of the law?

17 VENIRE PERSON: No, I guess, no.

18 MR. JACKS: I mean, I understand this is the
19 first time this question has ever been asked you, but is
20 there any question or hesitancy on your part?

21 VENIRE PERSON: No, I guess if it's the law
22 then --

23 MR. JACKS: Would you be able to follow that
24 instruction if the Judge gave you that instruction?

25 VENIRE PERSON: Yes.

18:00 1 MR. JACKS: Thank you, Ms. Moreno.

2 THE COURT: Ms. Moreno, we are in the process of
3 talking to the members of the pool from which the jury
4 that would hear this case will be selected. I suspect we
5 will be doing that until later today, and until you hear
6 from us, you should not discuss the case with anyone or
7 allow anyone to discuss it with you. And if there are any
8 media accounts of the case in the newspapers or on the
9 television or radio, you should not read or watch or
10 listen to any such accounts. You may be excused. Thank
11 you.

12 VENIRE PERSON: Thank you.

13 (Recess)

14 THE COURT: Good morning, Ms. Hernandez.

18:00 15 Counsel for the parties have some questions they would
16 like to ask you.

17 MS. MORENO: Good morning, Ms. Hernandez. My
18 name is Linda Moreno. I'm one of the defense attorneys in
19 this case, and I want to ask you some questions about the
20 answers you wrote in your questionnaire a few weeks ago.
21 Okay? But one of the things I see right away is that you
22 are in the National Guard.

23 VENIRE PERSON: I used to be.

24 MS. MORENO: No longer. Let me ask you this
25 before we get into other issues. This is a trial that

18:00 1 will last approximately four months. Knowing that, is
2 that going to cause you any kind of economic hardship,
3 impact your life in any negative way?

4 VENIRE PERSON: No.

5 MS. MORENO: What do you do now?

6 VENIRE PERSON: I'm an appraiser through the
7 Dallas County Central Appraisal District.

8 MS. MORENO: What do you appraise?

9 VENIRE PERSON: It's going to be residential --
10 condos, houses.

11 MS. MORENO: And how long have you been doing
12 that?

13 VENIRE PERSON: About three months.

14 MS. MORENO: What did you do before that?

18:00 15 VENIRE PERSON: Dallas County Tax Office at
16 Customer Service.

17 MS. MORENO: How long did you do that?

18 VENIRE PERSON: About nine months.

19 MS. MORENO: And before that?

20 VENIRE PERSON: I worked at Dillards.

21 MS. MORENO: This is a case involving the Holy
22 Land Foundation. And the Holy Land Foundation was an
23 American Muslim charity. Have you heard anything about
24 the Holy Land Foundation in the press or on TV?

25 VENIRE PERSON: No.

18:00 1 MS. MORENO: Haven't read anything about it?

2 VENIRE PERSON: No.

3 MS. MORENO: The case of the Holy Land

4 Foundation involves, the government claims, charges of

5 material support of terrorism. The government alleges

6 that the charity sent humanitarian aid and that this

7 humanitarian aid was in the form of food, medicine, books,

8 diapers for children and that this humanitarian aid was

9 sent around the world but primarily to the Occupied

10 Territories in the West Bank and Gaza. Okay?

11 VENIRE PERSON: Yes.

12 MS. MORENO: But the government further says

13 this aid somehow benefited a foreign terrorist

14 organization called HAMAS. Have you ever heard of HAMAS?

18:00 15 VENIRE PERSON: Not really. Unless someone told

16 me something about what's going on in the news right now.

17 MS. MORENO: Sometimes this is referred to as

18 the Palestinian-Israeli conflict. Have you followed that

19 conflict at all?

20 VENIRE PERSON: No.

21 MS. MORENO: Did you have any opinions about

22 what's going on in the Middle East, primarily in the

23 Occupied Territories?

24 VENIRE PERSON: No, I don't really get in

25 politics.

18:00 1 MS. MORENO: You have to speak up a little bit
2 so that I can hear you.

3 VENIRE PERSON: I don't really look at politics,
4 the Palestinians or Holy Land. I don't know.

5 MS. MORENO: Don't have any opinions on that?

6 VENIRE PERSON: No.

7 MS. MORENO: You were in the National Guard?

8 VENIRE PERSON: Yes.

9 MS. MORENO: How long?

10 VENIRE PERSON: About three years as a reserve,
11 but I didn't finish my training.

12 MS. MORENO: So you never were deployed?

13 VENIRE PERSON: Right. I never even went to
14 that two weeks in the summer. Just weekends.

18:00 15 MS. MORENO: In your questionnaire, there was a
16 question asked about giving the same considerations and
17 Constitutional protection to citizens and noncitizens.
18 That was a question. And you were asked whether you could
19 do that, and you indicated I believe that you could not do
20 that. Can you tell me a little bit about why you said
21 that?

22 VENIRE PERSON: Just the whole issue. You know
23 even me a minority. Having different rights when you are
24 a citizen and not a citizen. But I don't really have that
25 much information. I'm not well informed or have that much

18:00 1 knowledge on that. So kind of ignorant on that.

2 MS. MORENO: When you said a citizen and
3 noncitizen?

4 VENIRE PERSON: I'm a citizen but like Mexican
5 and all, you know.

6 MS. MORENO: What do you think about those
7 issues, about being a citizen and noncitizen and being
8 afforded the same rights? Do you think that's fair?

9 VENIRE PERSON: No, it was not fair. But I was
10 fortunate enough -- my parents came over here and first
11 generation, I was fortunate enough to be born here.

12 MS. MORENO: But you don't think it's fair that
13 a person who's not a citizen has the same rights as you
14 do. Do I hear you right?

18:00 15 VENIRE PERSON: Correct.

16 MS. MORENO: But I'm not sure why you feel that
17 way.

18 VENIRE PERSON: I don't know.

19 MS. MORENO: First of all, let me tell you there
20 is no right or wrong answer here. We get to be a little
21 nosy here to find out what you feel. If you learned one
22 of these gentlemen was not a citizen, would that be in
23 your mind? And you would think You know what? He's not a
24 citizen, and he shouldn't get all of these Constitutional
25 rights that everybody enjoys who's a citizen. Would you

18:00 1 think that?

2 VENIRE PERSON: I guess in a way it would be in
3 the back of my mind.

4 MS. MORENO: And because it's in the back of
5 your mind, is that something that would really prevent you
6 when you are thinking about the evidence in the case from
7 affording that person all of these Constitutional rights
8 that we as citizens enjoy?

9 VENIRE PERSON: Maybe. That would still be
10 there.

11 MS. MORENO: In this case, I expect there will
12 be speech that's critical of the United States. I expect
13 there to be evidence of conversations and magazines with
14 speech that might be critical of the U.S. How do you feel
18:00 15 about freedom of speech?

16 VENIRE PERSON: I feel it's a good thing that we
17 have.

18 MS. MORENO: How about speech that's critical of
19 our own government?

20 VENIRE PERSON: It's a person's opinion.

21 THE COURT: Ms. Moreno.

22 VENIRE PERSON: When someone is speaking about
23 government, saying their own opinion, that's their
24 opinion.

25 MS. MORENO: Thank you so much. Thank you, your

18:00 1 Honor.

2 THE COURT: Counsel for the government have
3 questions for Ms. Hernandez?

4 MR. JACKS: Yes, your Honor.

5 Good morning, Ms. Hernandez. My name is Jim
6 Jacks. I'm an Assistant United States Attorney here in
7 Dallas, and I'm one of the prosecutors in this case, and I
8 will be representing the government during this trial, and
9 I have just a few questions for you as well, if you don't
10 mind.

11 I, too, want to thank you for your patience in
12 waiting outside while we're working in here. Is Dallas
13 your home? Were you born and raised here?

14 VENIRE PERSON: Yes.

18:00 15 MR. JACKS: You said that you enlisted in the
16 National Guard. How old were you when you enlisted?

17 VENIRE PERSON: I think I was about twenty when
18 I signed the papers. '02.

19 MR. JACKS: And you said you did not finish your
20 tour or commission?

21 VENIRE PERSON: I didn't do my split option. I
22 didn't want to miss school so I did a summer. And I went
23 a full year in college, and that summer I was supposed to
24 go back. I didn't pass my weight and body fat standards.
25 But I would still go to drill every weekend.

18:00 1 MR. JACKS: And so when that happened, how is
2 that recorded in your papers as far as your discharge?
3 VENIRE PERSON: I'm not sure. It just says
4 discharged, and I asked my superiors, and they said it's
5 just a regular charge, not dishonorable.
6 MR. JACKS: It's not that?
7 VENIRE PERSON: No. It's honorable.
8 MR. JACKS: What was your job in the National
9 Guard?
10 VENIRE PERSON: I was supposed to be a mechanic.
11 They told me that I could change it later, but I never
12 even went through any of it.
13 MR. JACKS: So when you wouldn't go to drill or
14 whatever, what would you do?
18:00 15 VENIRE PERSON: Go to school.
16 MR. JACKS: Classroom?
17 VENIRE PERSON: College, yes.
18 MR. JACKS: But when you would be on duty with
19 the National Guard --
20 VENIRE PERSON: What would we do?
21 MR. JACKS: Yes.
22 VENIRE PERSON: Not really much.
23 MR. JACKS: Setting aside the physical training,
24 the PT, did you work at some job when you were on duty
25 with the Guard or was it classroom?

18:00 1 VENIRE PERSON: Always waiting around to see
2 what we would do. I will try to help out putting some of
3 the wheels on or, okay, this is how you do stuff and check
4 vehicles. Check the tires a little bit. Just little
5 stuff.

6 MR. JACKS: So you would go to like a motor pool
7 or something?

8 VENIRE PERSON: Sometimes, depending.

9 MR. JACKS: Can you repair or work on cars now?

10 VENIRE PERSON: No.

11 MR. JACKS: Where did you get your college
12 degree?

13 VENIRE PERSON: At UNT.

14 MR. JACKS: Did you commute or live up there?

18:00 15 VENIRE PERSON: I lived up there.

16 MR. JACKS: Is it in real estate?

17 VENIRE PERSON: Yes.

18 MR. JACKS: What's the title? Is it a business
19 degree?

20 VENIRE PERSON: Yes, BA, business
21 administration.

22 MR. JACKS: Do you live on your own or with your
23 family?

24 VENIRE PERSON: I live with my family.

25 MR. JACKS: What does your dad do?

18:00 1 VENIRE PERSON: He runs a hotel.

2 MR. JACKS: What's his job?

3 VENIRE PERSON: He works in the laundry in one

4 and the other as a chef.

5 MR. JACKS: So he works at more than one hotel?

6 VENIRE PERSON: Yes.

7 MR. JACKS: How about your mom? Does she work

8 outside the home?

9 VENIRE PERSON: Yes, DISD at the cafeteria.

10 MR. JACKS: Is she a server or doing something

11 different?

12 VENIRE PERSON: Mostly server.

13 MR. JACKS: Does she cook?

14 VENIRE PERSON: Just heat them up, yes.

18:00 15 MR. JACKS: How long has she work at DISD?

16 VENIRE PERSON: Maybe ten years.

17 MR. JACKS: And how long has your dad worked at

18 his job?

19 VENIRE PERSON: Since I was born.

20 MR. JACKS: At the same hotels?

21 VENIRE PERSON: No, one changed.

22 MR. JACKS: Is he a cook? Does he cook at home

23 for you all?

24 VENIRE PERSON: No, not really.

25 MR. JACKS: Where did you attend high school,

18:00 1 here in Dallas?

2 VENIRE PERSON: Townview Magnet, yes.

3 MR. JACKS: You said you are an appraiser. Are
4 you in the field yet?

5 VENIRE PERSON: Not yet. We're at the offices.
6 Just when we have hearings.

7 MR. JACKS: Do you sit in on those hearings?

8 VENIRE PERSON: I did on Tuesday. I was
9 supposed to be there this week.

10 MR. JACKS: Are you one of the people that sits
11 at the computers and pulls up the comparables and delivers
12 it to the homeowner?

13 VENIRE PERSON: It doesn't have to be bad.

14 MR. JACKS: You are beginning to be an
15 appraiser?

16 VENIRE PERSON: Correct.

17 MR. JACKS: Would that involve being out and
18 taking photographs and running comparables on the
19 computer?

20 VENIRE PERSON: Correct.

21 MR. JACKS: This something you think you will
22 stay with?

23 VENIRE PERSON: Yes.

24 MR. JACKS: Do you have any interest in being in
25 real estate sales or development or like that?

18:00 1 VENIRE PERSON: I am a realtor, also. I have
2 that on the side. Since I started this job, I haven't
3 really done that too much. I'm trying to get used to the
4 time. It's like all day long.

5 MR. JACKS: Now, you have told us that your
6 parents were immigrants. They immigrated from Mexico, and
7 you were born here.

8 VENIRE PERSON: Yes.

9 MR. JACKS: Regarding the question you were
10 asked about, is it your feeling that noncitizens should
11 not necessarily be afforded the same rights as a citizen?
12 Is that your answer, what you were saying?

13 VENIRE PERSON: Correct. I know my mom, later
14 on she became a citizen. My dad is still not a citizen.

18:00 15 MR. JACKS: Would it change your answer if the
16 noncitizen was a legal resident alien? If that person
17 while not a citizen, I guess similar to your dad, that
18 person had a green card and was legally within the
19 country, would that change your answer as far as their
20 rights in our criminal justice system?

21 VENIRE PERSON: Just a little bit more rights I
22 guess if they are actually a legal resident.

23 MR. JACKS: Okay. I understand your feelings.
24 But if the law was that even a person who's just passing
25 through the country and if they are alleged to have

18:00 1 committed a crime that they would get treated the same as
2 a citizen -- They have the presumption of innocence, and
3 if you have been accused of committing a crime in the
4 United States, the protections of the U.S. Constitution
5 apply to you in a court of law. Could you abide by that
6 if the Court were to tell you that is the law?

7 VENIRE PERSON: I would try to, but I guess it
8 would still be in the back of my mind.

9 THE COURT: Mr. Jackson, your time has expired.

10 MR. JACKS: Thank you, ma'am.

11 THE COURT: Ms. Hernandez, we are in the process
12 of talking with the members of the pool from which the
13 jury will be selected that will hear this case. I expect
14 that process will continue until later today. So until
18:00 15 you hear from us again, you should not discuss this case
16 with anyone or allow anyone to discuss it with you, and if
17 there are any media accounts about the case in the
18 newspapers or on television or the radio, you should not
19 read or watch or listen to any such media accounts. Thank
20 you, ma'am. You may be excused.

21 MS. MORENO: Your Honor, at this time on behalf
22 of the defense we move for a cause challenge on this young
23 lady. She could not afford -- and it was pretty clear --
24 the Constitutional rights to a noncitizen.

25 THE COURT: Any objection?

18:00 1 MR. JACKS: No, your Honor.

2 THE COURT: I will excuse Ms. Hernandez for
3 cause.

4 Good morning, Ms. Russell. Counsel for the
5 parties have some questions for you.

6 MS. MORENO: First of all, good morning and
7 thank you for your patience in being here. My name is
8 Linda Moreno, and I'm one of the dense attorneys, and I
9 want to ask you a few questions. The first is I see you
10 have had a number of back surgeries. This case is going
11 four months, and so what we need to know if your medical
12 condition would make it difficult for you or cause you any
13 stress?

14 VENIRE PERSON: I wasn't aware of this until the
18:00 15 first day when I came to do that questionnaire, and
16 sitting through that, I became very uncomfortable, and
17 then of course, yesterday being here all day I had to lay
18 down in the lounge to try to relief the back. I am
19 concerned that I might not be as alert if I'm in a lot of
20 pain.

21 MS. MORENO: So you experience pain because of
22 this medical condition?

23 VENIRE PERSON: Yes.

24 MS. MORENO: Are you on any medication?

25 VENIRE PERSON: No, I don't take medication. I

18:00 1 live with it. I do take aspirin. Yesterday I took
2 aspirin, but that's about it.

3 MS. MORENO: Well, this case is going four
4 months, Monday through Thursday. And while there will be
5 periodic breaks, generally speaking, you will be sitting
6 for long periods of time. So I guess my question and
7 what's fair to ask on behalf of everyone is if that
8 medical condition and pain that would be attendant to it
9 would distract you from your jury service?

10 VENIRE PERSON: I really believe it would. I'm
11 concerned about that on both sides. I'm worried that I
12 wouldn't be able to give attention to what I need to. So
13 I am concerned about that.

14 MS. MORENO: Pass the juror. Thank you.

18:00 15 THE COURT: Counsel for the government have
16 questions of Ms. Russell?

17 MR. JACKS: Just briefly, your Honor.

18 Good morning, Ms. Russell.

19 VENIRE PERSON: Good morning.

20 MR. JACKS: My name is Jim Jacks. I'm an
21 Assistant United States Attorney here in the Northern
22 District of Texas, and I will be representing the
23 government, and I have a few follow-up questions. I
24 apologize if I repeat some. It's kind of difficult to
25 hear in the courtroom. So your condition is your back?

18:00 1 VENIRE PERSON: Yes, it is. I have three
2 vertebrae in my lower back that has been fused. It's the
3 ones in my lower back that creates the pain.

4 MR. JACKS: Is that from an accident?

5 VENIRE PERSON: I have degenerative cartilage.
6 My cartilage disintegrates, and they have to go in and
7 replace it. I have had a knee replacement, too.

8 MR. JACKS: Well, in this case we generally
9 start at nine and go to 10:30 and take a break and then go
10 to noon and take an hour and a half lunch break and then
11 3:15 or so and take a break and then go to 4:45. Could
12 you go that?

13 VENIRE PERSON: I could probably do that. I
14 took aspirin in the morning, and I took it at lunch. As
18:00 15 long as I can move around at breaks, not having to sit
16 through four hours.

17 MR. JACKS: How about if the Judge were to allow
18 you to have a seat on the back row and while the trial was
19 going on you were free to stand up and move around and
20 stretch?

21 VENIRE PERSON: That would not be a problem at
22 all.

23 MR. JACKS: Your occupation is a crossing guard?

24 VENIRE PERSON: Yes, sir.

25 MR. JACKS: Is that a part time job?

18:00 1 VENIRE PERSON: Yes, it is.

2 MR. JACKS: And are you employed by the Sachse

3 Police?

4 VENIRE PERSON: Yes, I am.

5 MR. JACKS: Do you work at school zones?

6 VENIRE PERSON: All school zones.

7 MR. JACKS: How long have you done that?

8 VENIRE PERSON: I just started in January.

9 MR. JACKS: What did you do before that?

10 VENIRE PERSON: I lived in California and when

11 we moved here I retired. I used to be a travel agent. I

12 retired because of my back. It was too much and through

13 boredom I became a crossing guard, and I love every moment

14 of it.

18:00 15 MR. JACKS: What part of California were you

16 living in?

17 VENIRE PERSON: I was born and raised in Los

18 Angeles, and we were living in San Diego when we moved

19 here.

20 MR. JACKS: What does your husband do?

21 VENIRE PERSON: Accountant. Business manager

22 for a HCA.

23 MR. JACKS: What is that?

24 VENIRE PERSON: Hospitals.

25 MR. JACKS: What hospitals do they own?

18:00 1 VENIRE PERSON: Several. My husband has fifteen
2 hospitals going all the way from El Paso up into Kansas.
3 He's the centralized business officer in charge of -- What
4 they did is took their billings from the hospitals and put
5 them in the one place in Dallas, and he does all the
6 billing and so forth, collecting insurance.

7 MR. JACKS: Excuse my ignorance. Are the
8 hospitals all called HCA?

9 VENIRE PERSON: No. Medical City Dallas,
10 Plano -- different hospitals but they belong to HCA.

11 MR. JACKS: Did you move to Texas with his job?

12 VENIRE PERSON: Yes, I did.

13 MR. JACKS: Was he working for that company out
14 there?

18:00 15 VENIRE PERSON: No. No, he actually came out
16 here to work for Baylor and worked for them on their
17 centralized business office a few years and went to HCA.

18 MR. JACKS: Do you live in Sachse?

19 VENIRE PERSON: Actually, no. I live in North
20 Garland.

21 MR. JACKS: Again, have you been on a criminal
22 jury before?

23 VENIRE PERSON: Never.

24 MR. JACKS: Have you received a jury summons
25 before?

18:00 1 VENIRE PERSON: Yes, but when I called, they
2 said they didn't need me.
3 MR. JACKS: Was that in Texas or California?
4 VENIRE PERSON: That was here.
5 MR. JACKS: And your children, do you have any
6 children still at home?
7 VENIRE PERSON: I have one boy that just came
8 home for a short period.
9 MR. JACKS: From college or?
10 VENIRE PERSON: No. He does have a problem with
11 drinking, and we have been trying to help him, and he just
12 had a bout with this problem, and so he has come to
13 regroup so that he can go back out again.
14 MR. JACKS: Where was he living?
18:00 15 VENIRE PERSON: In Plano.
16 MR. JACKS: With regard to the charges in this
17 case, as has been said, the allegations in this case are
18 that the Holy Land Foundation and men working for that
19 entity provided material support to a foreign terrorist
20 organization; namely, HAMAS. Have you heard of HAMAS?
21 VENIRE PERSON: Yes, I have, but just recently.
22 MR. JACKS: As a result of this case coming up
23 in the news?
24 VENIRE PERSON: Yes, it was just on the news
25 this week.

18:00 1 MR. JACKS: At the end of the evidence when both
2 sides have presented their evidence, the Judge will read
3 his instructions to the jury, and it will say this is what
4 the jury has to find in order to find a defendant guilty.
5 And I anticipate in those instructions he would tell you
6 that HAMAS has been designated a foreign terrorist
7 organization, and also in those instructions I expect
8 there would be language to the effect that under United
9 States law giving anything in the nature of material
10 support to a foreign terrorist organization is illegal,
11 even if that thing given might be considered otherwise
12 like food or clothing or medical supplies, even those
13 types of items if given to a foreign terrorist
14 organization, that's still a violation of the law. Having
18:00 15 heard that explanation, do you have any disagreement with
16 that aspect of the law?

17 VENIRE PERSON: No, not at all.

18 MR. JACKS: Could you follow the Court's
19 instructions then if he were to instruct you that was the
20 law?

21 VENIRE PERSON: Yes.

22 THE COURT: Ms. Russell, we are in the process
23 of talking with the members of the pool from which the
24 jury will be selected that would hear this case. That
25 process will probably go on for a while longer today. So

18:00 1 until you hear from us further, you should not discuss
2 this case with anyone or allow anyone to discuss it with
3 you. And if there are any media accounts about this case
4 in the newspaper or on television or on the radio, you
5 should not read or watch or listen to any of those media
6 accounts.

7 MS. MORENO: Excuse me, your Honor, before the
8 jury is excused. May we approach very briefly?

9 THE COURT: All right.

10 MS. MORENO: Your Honor, we would ask the Court
11 to inquire if this particular juror knows Agent Robert
12 Miranda. It's our understanding she does know Agent
13 Miranda who's one of the case agents in this case and what
14 is her relationship with Agent Miranda before she leaves.

18:00 15 THE COURT: I'm puzzled why you didn't ask that
16 yourself.

17 MS. MORENO: I apologize. I thought her
18 description of her ailment and medical problems were
19 sufficient enough that perhaps the government with not try
20 to rehabilitate her. So I take responsibility for that,
21 and I apologize. I do think it's important, and the Court
22 should know if she has a relationship with the case agent
23 on this case. I think it's fair that we all know that.

24 THE COURT: Ms. Russell, do you know a person by
25 the name of Robert Miranda?

18:00 1 VENIRE PERSON: I don't think so.

2 THE COURT: Thank you, ma'am.

3 MS. MORENO: Your Honor, for the record I wanted

4 to indicate in her questionnaire she had written she does

5 know FBI Agent Robert Miranda, who's the possible agent to

6 her citizen's police academy, and further, your Honor, at

7 this time we would move or ask the Court to consider a

8 hardship for this particular juror. She did indicate that

9 her back situation would make it very difficult for her to

10 concentrate. So we would submit that for your

11 consideration.

12 THE COURT: Yes, ma'am. Thank you.

13 Mr. Kiblinger, I think we're ready to see next

14 Ms. Prince.

18:00 15 Good afternoon, Ms. Prince. I think counsel for

16 the parties have some questions for you. Go ahead, Mr.

17 Westfall.

18 MR. WESTFALL: Ms. Prince, I'm Greg Westfall.

19 How are you this morning?

20 VENIRE PERSON: Okay.

21 MR. WESTFALL: Thank you so much for coming.

22 I'm sure you had to come yesterday.

23 VENIRE PERSON: That's okay.

24 MR. WESTFALL: Thank you so much for the time

25 you put in this.

18:00 1 VENIRE PERSON: Okay.

2 MR. WESTFALL: I'm one of the defense lawyers in
3 this case, and I want to talk to you a very few minutes,
4 and then the government wants to talk to you. This is the
5 case of United States versus Holy Land Foundation for
6 Relief and Development. Have you heard of the case?

7 VENIRE PERSON: Not until very recently.

8 MR. WESTFALL: What have you heard recently?

9 VENIRE PERSON: Oh, is that that group up in
10 Richardson? I don't know. I don't know about it. I
11 don't watch the news or read the paper very much at all.

12 MR. WESTFALL: It is the group in Richardson.
13 It is the American Muslim charity in Richardson, Texas,
14 that the government now alleges the charity and some of
18:00 15 the men with the charity gave material support to HAMAS.
16 Hearing all of that, let me ask you, have you made any
17 decisions or do you have any opinions of the guilt or
18 innocence of any of the defendants?

19 VENIRE PERSON: Not possible. No, absolutely
20 not. There is no way I could. I don't know anything
21 about it.

22 MR. WESTFALL: Good, that's the A answer.

23 VENIRE PERSON: Okay.

24 MR. WESTFALL: How do you feel about being on a
25 jury trial, on a jury in a trial that involves Muslim men

18:00 1 and terrorism is like in the title of the charge?

2 VENIRE PERSON: Curious.

3 MR. WESTFALL: Curious?

4 VENIRE PERSON: Curious.

5 MR. WESTFALL: What are you curious about?

6 VENIRE PERSON: Federal juries sound different
7 than municipal juries or something like that.

8 MR. WESTFALL: Sound what?

9 VENIRE PERSON: Different.

10 MR. WESTFALL: Than municipal juries?

11 VENIRE PERSON: Yes.

12 MR. WESTFALL: It is different in a number of
13 ways.

14 VENIRE PERSON: Yes.

18:00 15 MR. WESTFALL: Have you ever known any Muslims?

16 VENIRE PERSON: Acquaintances.

17 MR. WESTFALL: Tell me about them if you don't
18 mind.

19 VENIRE PERSON: One I think is or was a friend
20 of my grandson. Other than that, possibly somebody in
21 business or something like that. But not really.

22 MR. WESTFALL: Have you ever had any bad
23 experiences with an Arab?

24 VENIRE PERSON: No.

25 MR. WESTFALL: Any particularly good

18:00 1 experiences?

2 VENIRE PERSON: No, neither way.

3 MR. WESTFALL: How many grandchildren do you
4 have?

5 VENIRE PERSON: You really don't want to know.
6 I have about thirty-five or so step-grandchildren.

7 MR. WESTFALL: Whoa, thirty-five?

8 VENIRE PERSON: Yes.

9 MR. WESTFALL: You could start a country.

10 VENIRE PERSON: My husband created a dynasty,
11 and then he died and left me with it.

12 MR. WESTFALL: How are you managing?

13 VENIRE PERSON: They mostly are in Austin, and
14 I'm up here. That's a real good way to handle it.

18:00 15 MR. WESTFALL: Distance does indeed make the
16 heart grow fonder?

17 VENIRE PERSON: Yes.

18 MR. WESTFALL: Did you used to be in the army?

19 VENIRE PERSON: Yes.

20 MR. WESTFALL: When?

21 VENIRE PERSON: 1965.

22 MR. WESTFALL: What did you do in the army?

23 VENIRE PERSON: I was training for the medical
24 corps.

25 MR. WESTFALL: Did you get out of the army?

18:00 1 VENIRE PERSON: Yes. I did not serve a full
2 period of time.

3 MR. WESTFALL: What caused you to join the army
4 back in 1965?

5 VENIRE PERSON: That's a long time ago. We were
6 kind of -- my brother was a big military fan, and I had no
7 definite direction at that time, and it sounded like a
8 good way to go because I knew I could get an education.

9 MR. WESTFALL: Now, you mentioned municipal
10 court, and this is federal court, and there is differences
11 in ranges of punishment and stuff like that. But in a
12 criminal court anywhere in the United States every person
13 who's charged has a presumption of innocence. You have
14 heard that term?

18:00 15 VENIRE PERSON: Yes.

16 MR. WESTFALL: Do you know what that means?

17 VENIRE PERSON: Yes.

18 MR. WESTFALL: What does it mean?

19 VENIRE PERSON: That you are not guilty of
20 anything, of what you are charged with.

21 MR. WESTFALL: Unless and until the government
22 proves its case beyond a reasonable doubt.

23 VENIRE PERSON: At the beginning you are not
24 guilty until something happens.

25 MR. WESTFALL: Why do you think we have that?

18:00 1 There is really not any other nation in the world that has
2 that. We do.

3 VENIRE PERSON: How about we're smart?

4 MR. WESTFALL: We're smarter?

5 VENIRE PERSON: Okay. Scratch that. That's
6 just the way this country was based.

7 MR. WESTFALL: It's fairness I think. We want
8 to be fair and not put innocent people in prison. That's
9 one of the protections. It doesn't work all the time, but
10 if we all try -- I think that's the goal. When our
11 forefathers came from England, there was a lot of people
12 being put in prison for their lack of religion or not
13 worshipping the Pope or whatever. I think that's the
14 lesson they learned. At least that's my experience.

18:00 15 Now, how do you feel -- You said curious. We
16 talked about Constitutional protection. Do you think in a
17 case talking about Muslim men and terrorism that we ought
18 to have the same kind of protection?

19 VENIRE PERSON: Absolutely. You can't be guilty
20 of something until somebody proves it. That's the way I
21 see it. Not every christian is the most straightforward
22 or loyal -- or whatever you want to call it -- person.
23 Nor is every Muslim or Buddhist or anyone else. People
24 are people.

25 MR. WESTFALL: Everyone is different?

18:00 1 VENIRE PERSON: Yes.

2 MR. WESTFALL: You sound like someone who likes

3 freedom of speech.

4 VENIRE PERSON: Okay.

5 MR. WESTFALL: Have you ever been accused of

6 speaking your mind?

7 VENIRE PERSON: Once in a while.

8 MR. WESTFALL: In this case, there may be

9 evidence of our clients making very critical statements

10 about Israel and sometimes critical statements about the

11 United States. How do you feel about that?

12 VENIRE PERSON: I think I have probably made

13 critical statements about everything and everybody because

14 I'm just human.

18:00 15 THE COURT: Mr. Westfall, your time has expired.

16 MR. WESTFALL: Thank you, your Honor. Thank

17 you.

18 THE COURT: Counsel for the government have

19 questions for Ms. Prince?

20 MR. GARRETT: Yes, your Honor. Good morning,

21 Ms. Prince.

22 VENIRE PERSON: Good morning.

23 MR. GARRETT: My name is Nathan Garrett, and I'm

24 an Assistant United States Attorney, and I'll be one of

25 the prosecutors that handles this case for the government.

18:00 1 I just have a few follow-up questions for you. Okay?

2 VENIRE PERSON: All right.

3 MR. GARRETT: As it came out in Mr. Westfall's

4 question, you are a lady who has a lot of grandchildren?

5 VENIRE PERSON: Yes.

6 MR. GARRETT: A lot of children grown it looks

7 like. Are they all boys?

8 VENIRE PERSON: No.

9 MR. GARRETT: You have Linda?

10 VENIRE PERSON: Linda and the eighth child which

11 is kind of tacked on is a girl, Michelle.

12 MR. GARRETT: So eight of your own?

13 VENIRE PERSON: No. No, these are all

14 stepchildren. I have no children.

18:00 15 MR. GARRETT: So eight stepchildren and

16 thirty-five --

17 VENIRE PERSON: Yes.

18 MR. GARRETT: Last count?

19 VENIRE PERSON: Yes, we try not to keep that

20 caught up.

21 MR. GARRETT: You mentioned that most of them

22 were in Austin.

23 VENIRE PERSON: Yes.

24 MR. GARRETT: Are some of your family living

25 here?

18:00 1 VENIRE PERSON: In the area, my daughter Linda
2 is the only one who lives in the area.

3 MR. GARRETT: And your questionnaire said you
4 lived in the area for thirty-eight years?

5 VENIRE PERSON: Approximately, yes.

6 MR. GARRETT: And where did you live before you
7 came to the Dallas area?

8 VENIRE PERSON: A short while in Kileen, Texas.
9 I was stationed at Fort Hood and then actually I was born
10 and raised in Chicago.

11 MR. GARRETT: Now, I apologize for repeating
12 what Mr. Westfall asked you about, but you were in the
13 military how long?

14 VENIRE PERSON: Just over six months.

18:00 15 MR. GARRETT: Okay. You mentioned Fort Hood.

16 VENIRE PERSON: No, I was at Fort Sam.

17 MR. GARRETT: Always domestic, never overseas?

18 VENIRE PERSON: Never overseas.

19 MR. GARRETT: You mentioned on your
20 questionnaire various work, and I don't know with all of
21 your grandchildren how you have time to do anything. But
22 you mentioned some accounting?

23 VENIRE PERSON: Yes, I worked for Southland
24 Corporation in their accounting office.

25 MR. GARRETT: Is that around here?

18:00 1 VENIRE PERSON: It was the owners of 7-11
2 originally.

3 MR. GARRETT: How long did you work for them?

4 VENIRE PERSON: Twenty-three years.

5 MR. GARRETT: And you stopped working for them
6 when?

7 VENIRE PERSON: Fifteen years ago. Yes, I was
8 caught in a RIFT, reduction in force, but I had enough
9 company time, and so therefore, I ended up retiring.

10 MR. GARRETT: You mentioned in your
11 questionnaire that you had served on two juries. Is that
12 right? One petite and one civil?

13 VENIRE PERSON: One petite and one civil, yes.

14 MR. GARRETT: That's fine. That's the total of
15 your prior jury service?

16 VENIRE PERSON: That's correct.

17 MR. GARRETT: Have you been called down in a
18 group like this before aside from those two?

19 VENIRE PERSON: Oh, yes.

20 MR. GARRETT: Were those civil or criminal or do
21 you know?

22 VENIRE PERSON: I remember one was criminal.
23 I'm not sure about the others.

24 MR. GARRETT: Has that always been at the state
25 or local level or have you been called down to federal

18:00 1 court?

2 VENIRE PERSON: No, never. This is the first
3 one.

4 MR. GARRETT: First pleasure?

5 VENIRE PERSON: So that's why the curiosity.

6 MR. GARRETT: I noticed in your questionnaire
7 regarding your stepchildren and grandchildren, there have
8 been some brushes with the law.

9 VENIRE PERSON: Oh, that's one way of saying it.

10 MR. GARRETT: Well, the numbers are against you,
11 I think. But you mentioned in several places that there
12 had been some of those issues, and I apologize for asking
13 you. It's a bit rude of me, but I have to do that. Okay.

14 VENIRE PERSON: Okay.

18:00 15 MR. GARRETT: You mentioned I think that you
16 have your son was convicted of theft of a military ID
17 card.

18 VENIRE PERSON: Yes.

19 MR. GARRETT: Can you give me a little bit of
20 the --

21 VENIRE PERSON: Yes, he was National Guard. He
22 was in the military, and then he became National Guard,
23 and he got involved with a woman, and he stole some blank
24 ID cards for her, and she was selling them I guess to an
25 informant or to someone undercover, and consequently, it

18:00 1 led back to him, and he was in the federal prison in Fort
2 Worth. It's up in this area. He was up there for a
3 while.

4 MR. GARRETT: And you say that you were involved
5 in a case of police impersonation in Chicago?

6 VENIRE PERSON: Yes, a long, long time ago.
7 Single. Had my own apt. I and a friend were out walking
8 to another friend's place. A car pulled up. These guys
9 came out, and they said they were police officers. They
10 had me in the car. They kept my friend. They took off
11 with her. They let me loose. We had the police at my
12 apt.

13 MR. GARRETT: So you were a victim or a witness
14 in that case?

18:00 15 VENIRE PERSON: Yes.

16 MR. GARRETT: I won't ask you to explain them,
17 but there are a couple of others involving your spouse I
18 believe and a cattle rustling?

19 VENIRE PERSON: That's the term they gave it.
20 He was out hunting, and it ended up being cattle rustling.
21 He received probation.

22 MR. GARRETT: Let me ask you this. Based upon
23 the totality of your experience with your husband and your
24 children and grandchildren, is there anything about your
25 experiences in those circumstances that would make it

18:00 1 difficult for you to sit impartially in judging the United
2 States in this case or the defendants?

3 VENIRE PERSON: No, I don't think so.

4 MR. GARRETT: Do you feel at the end of the day
5 these family members were involved in the criminal justice
6 system were treated fairly by the criminal justice system?

7 VENIRE PERSON: Except Michael's but that's
8 because of his former wife.

9 MR. GARRETT: Would you hold that against me?

10 VENIRE PERSON: No, forget it.

11 THE COURT: Mr. Garrett, your time has expired.

12 Ms. Prince, we are in the process of talking to
13 the members of the pool from which the jury that would
14 hear this case will be selected. I expect that to
18:00 15 continue for some time today. And until you hear from us,
16 you should not allow anyone to discuss it with you or
17 discuss it with anyone. And if there are any media
18 accounts in the newspapers or television or on radio, you
19 should not listen or read or watch any of those.

20 VENIRE PERSON: That will be easy.

21 THE COURT: Thank you, ma'am. You may be
22 excused.

23 Good morning, Ms. Cadwallader. Counsel for the
24 parties have some questions they would like to ask you.
25 Go ahead, Mr. Westfall.

18:00 1 MR. WESTFALL: Ms. Cadwallader?

2 VENIRE PERSON: Yes.

3 MR. WESTFALL: I'm Greg Westfall, one of the
4 defense lawyers in this case. I want to speak with you
5 for a few minutes, and then the government may speak with
6 you. You doing okay?

7 VENIRE PERSON: Nervous.

8 MR. WESTFALL: Try not to be. I know it's hard.
9 And also you have been waiting for two days. Thank you so
10 much for your time and how long it has taken.

11 This case is the Holy Land Foundation case.
12 Does that ring a bell with you?

13 VENIRE PERSON: Yes, sir.

14 MR. WESTFALL: Can you tell me what you know
18:00 15 about it?

16 VENIRE PERSON: What I have been hearing in the
17 news.

18 MR. WESTFALL: How long have you been hearing
19 stuff in the news?

20 VENIRE PERSON: Off and on for a couple of
21 months.

22 MR. WESTFALL: Mainly?

23 VENIRE PERSON: But I forgot about it.

24 MR. WESTFALL: Like in the newspapers?

25 VENIRE PERSON: Newspapers, TV.

18:00 1 MR. WESTFALL: Do you surf the net, too?

2 VENIRE PERSON: No, no, I don't do computers.

3 MR. WESTFALL: Not much surfing going on?

4 VENIRE PERSON: No, I don't do computers.

5 MR. WESTFALL: Tell me specifically what you
6 have heard.

7 VENIRE PERSON: Well, that they allegedly have
8 been funneling money into terrorism groups.

9 MR. WESTFALL: What group?

10 VENIRE PERSON: Al Qaeda.

11 MR. WESTFALL: This is a case that involves
12 Muslim men, and the allegation is a terrorist
13 organization. Not Al Qaeda, it's HAMAS. Given what you
14 have heard and put into it, have you formed an opinion as
18:00 15 to whether any defendant is guilty or innocent?

16 VENIRE PERSON: No, not really.

17 MR. WESTFALL: Have you in any way?

18 VENIRE PERSON: No.

19 MR. WESTFALL: How do you feel about being on a
20 jury where we're talking about Muslim men being accused of
21 material support of terrorism?

22 VENIRE PERSON: I don't think I like it.

23 MR. WESTFALL: Well, share with us a little bit
24 if you don't mind.

25 VENIRE PERSON: I think of all the bad things

18:00 1 that are happening, and that's scary. But if I had to, I
2 would do it.

3 MR. WESTFALL: So is there a fear of
4 retribution?

5 VENIRE PERSON: There is always that
6 possibility. But I feel pretty secure living in the
7 United States. So hopefully I'll be taken care of.

8 MR. WESTFALL: Do you know any Muslims?

9 VENIRE PERSON: No.

10 MR. WESTFALL: Have you ever known any Muslims?

11 VENIRE PERSON: No.

12 MR. WESTFALL: Have you ever known any Arabs or
13 people of Arabic descent?

14 VENIRE PERSON: No.

18:00 15 MR. WESTFALL: Had good or bad experiences?

16 VENIRE PERSON: We do own a complex out near
17 UTA, and we have students that live in our apartments, but
18 most of them are from India.

19 MR. WESTFALL: So you own an apt you say is --
20 Is it UTA, Arlington?

21 VENIRE PERSON: Yes.

22 MR. WESTFALL: Do you actually collect the rent?

23 VENIRE PERSON: No, when they first move in, we
24 interview them and take an application.

25 MR. WESTFALL: Have they been polite?

18:00 1 VENIRE PERSON: Polite and quiet. Seem focused
2 on what they want to do as far as their education.
3 MR. WESTFALL: How many rental properties do you
4 have?
5 VENIRE PERSON: A few.
6 MR. WESTFALL: It took you a while to collect
7 those?
8 VENIRE PERSON: Over a few years, yes.
9 MR. WESTFALL: And what do you enjoy doing other
10 than that?
11 VENIRE PERSON: Well, we visit grandkids a lot.
12 I have one musically inclined. So we go to Austin quite a
13 bit to watch him. We try to travel.
14 MR. WESTFALL: Where do you like to travel when
18:00 15 you travel?
16 VENIRE PERSON: We haven't done a lot, but we
17 went to Washington and toured the monuments.
18 MR. WESTFALL: Oh, Washington, DC?
19 VENIRE PERSON: Yes.
20 MR. WESTFALL: What does he do?
21 VENIRE PERSON: He's retired.
22 MR. WESTFALL: What had he been doing before he
23 retired?
24 VENIRE PERSON: He was a senior accountant for
25 TXU.

18:00 1 MR. WESTFALL: And did you work outside the
2 house?
3 VENIRE PERSON: No, I did not.
4 MR. WESTFALL: Raised kids?
5 VENIRE PERSON: Yes.
6 MR. WESTFALL: How many grandkids do you have?
7 VENIRE PERSON: Four.
8 MR. WESTFALL: What are their age ranges?
9 VENIRE PERSON: 10, 11 and 14.
10 MR. WESTFALL: That's a good range. Are you
11 active in a church?
12 VENIRE PERSON: No.
13 MR. WESTFALL: Have you ever done any, like,
14 community work or volunteer work?
18:00 15 VENIRE PERSON: No, not really. Sorry to say,
16 no.
17 MR. WESTFALL: Are you still feeling nervous?
18 VENIRE PERSON: Not as much.
19 MR. WESTFALL: How do you feel about being on
20 this jury? Let me tell you, in this country everyone has
21 the right to be presumed innocent until proven guilty.
22 VENIRE PERSON: That's what makes this country
23 so great.
24 MR. WESTFALL: That's right. But do you
25 remember where you were on the morning of September 11?

18:00 1 VENIRE PERSON: Yes.

2 MR. WESTFALL: I think everybody does. How do
3 you feel about those protections being applied to a
4 terrorism case?

5 VENIRE PERSON: Well, I think they should stand
6 a chance. They need to be proven whether they are
7 innocent or guilty. So yeah until that happens.

8 MR. WESTFALL: Some people would say that they
9 shouldn't have any protection in a terrorism case. Others
10 would say those protections are most important in a
11 terrorism case because this is where we get to demonstrate
12 as a nation just how good our criminal justice system is
13 and how far our people are. If you had to choose between
14 one of those two, what would you choose? I have a feeling
18:00 15 I know.

16 VENIRE PERSON: You mean whether they were
17 guilty or not?

18 MR. WESTFALL: No. Whether the protections are
19 so important in this case because it is a terrorism case.

20 VENIRE PERSON: Yes.

21 MR. WESTFALL: Don't you think they are really
22 necessary in a case like this?

23 VENIRE PERSON: Oh, yes.

24 MR. WESTFALL: And it seems to me you haven't
25 much of a problem applying all of those protections.

18:00 1 VENIRE PERSON: (No response)

2 MR. WESTFALL: Would you have a problem applying

3 those?

4 VENIRE PERSON: No.

5 MR. WESTFALL: Feel like you would be a fair and

6 impartial juror?

7 VENIRE PERSON: Well, I would hope so.

8 MR. WESTFALL: Well, take a second and check in,

9 and do you feel like you could be? I hope so, too. But

10 only you know.

11 VENIRE PERSON: Right. It's hard to say. I

12 could be a little biased I guess. Might be a little hard.

13 MR. WESTFALL: Biased against Muslims or

14 terrorists?

18:00 15 VENIRE PERSON: Just the terrorist part.

16 THE COURT: Mr. Westfall, your time has expired.

17 Counsel for the government have questions for Ms.

18 Cadwallader.

19 MR. JONAS: Yes, sir. Good morning, Ms.

20 Cadwallader. I'm still making sure it's morning. My name

21 is Barry Jonas. I'm one of the prosecutors in this case,

22 and I have a few questions for you. When did you visit

23 Washington?

24 VENIRE PERSON: This past summer.

25 MR. JONAS: Did you like it?

18:00 1 VENIRE PERSON: Loved it.

2 MR. JONAS: I live in Washington. I didn't grow
3 up there, but I've lived there about fifteen years, and I
4 still get inspired when you see the Washington monument.

5 VENIRE PERSON: Oh, yes.

6 MR. JONAS: Anything else?

7 VENIRE PERSON: The Lincoln Memorial. Turn
8 around and see the White House.

9 MR. JONAS: Right. And you made a comment about
10 this country being so great, and one of the things that
11 makes it great are the protections afforded to someone
12 who's charged with a crime, the presumption of innocence.
13 And even though this case does involve terrorism,
14 terrorism is in the title as Mr. Westfall said, but it's
18:00 15 important for you to give that presumption of innocence to
16 these individuals. Despite the fact this is a terrorism
17 case, it is still a criminal case. Do you think you can
18 truly and fairly give that presumption to these
19 defendants?

20 VENIRE PERSON: Well, I would hope so.

21 MR. JONAS: There is no right or wrong answer.
22 This is what you should believe in your heart. Both sides
23 are looking for someone that can be fair to both sides. I
24 want to ask you a couple of other questions. You have
25 served than a jury before?

18:00 1 VENIRE PERSON: Yes.

2 MR. JONAS: And how did that turn out?

3 VENIRE PERSON: Well, we reached verdicts.

4 Different trials that I have been on. I have been picked
5 before.

6 MR. JONAS: Were those good experiences?

7 VENIRE PERSON: Interesting experiences, yes.

8 MR. JONAS: You put down on your
9 questionnaire -- You filled this out a few weeks ago --
10 whether you or your spouse were born outside the United
11 States, you put Philippines.

12 VENIRE PERSON: Well, he's an American citizen,
13 but he was born in the Philippines. His parents were
14 American, but they spent four years in a Japanese prison
18:00 15 camp.

16 MR. JONAS: You also put you don't speak or
17 understand Hebrew or Arabic, and the government
18 anticipates there will be conversations in Arabic or
19 Hebrew with translations given to the jury. You checked
20 off if you speak or read Arabic or Hebrew language would
21 you have any difficult relying solely on translator's
22 translation, and you checked yes, implying you would have
23 difficulty. Is that correct?

24 VENIRE PERSON: I believe so.

25 MR. JONAS: Why would you have difficulty

18:00 1 relying on the translator?

2 VENIRE PERSON: Well, I guess if they were good,
3 I would not have a problem.

4 MR. JONAS: So if you would evaluate the
5 translator you would be able to rely upon the translation?

6 VENIRE PERSON: Yes.

7 MR. JONAS: And if you found they were a good
8 translator, would you be able to rely on the translation?

9 VENIRE PERSON: Yes.

10 MR. JONAS: Have you ever heard about HAMAS?

11 VENIRE PERSON: Yes.

12 MR. JONAS: What do you know about HAMAS?

13 VENIRE PERSON: Just what I hear in the paper.

14 MR. JONAS: What have you heard?

18:00 15 VENIRE PERSON: I hear so much sometimes. When
16 you start getting older, it's hard to retain all of this
17 information.

18 MR. JONAS: I understand. As I learn something
19 new, I have to get rid of something old to take its place.
20 What is your reaction when you hear HAMAS, good or bad?

21 VENIRE PERSON: Bad.

22 MR. JONAS: Well, in this case the defendants
23 are accused of giving aid to HAMAS. After the Judge
24 charges the jury with the law, you will hear that HAMAS is
25 a terrorist organization designated by the United States,

18:00 1 and it makes it illegal for anyone to give support, money
2 or other items to HAMAS. Now, if the evidence -- If you
3 find as a juror that some of the support went for good
4 things, things you normally think of as charity, that it
5 still benefited HAMAS and was done for the benefit of
6 HAMAS, could you find the defendants guilty?

7 VENIRE PERSON: Yes.

8 MR. JONAS: Thank you very much.

9 THE COURT: Ms. Cadwallader, we are in the
10 process of talking with the pool from which the jury will
11 be selected to hear this case. I expect that process to
12 continue until later today. So until you hear from us
13 further you should not discuss this case with anyone or
14 allow anyone to discuss it with you, and if there are any
18:00 15 media accounts about the case in the newspapers or on the
16 television or radio, you should not watch or listen to or
17 read any of those media accounts. Thank you, ma'am. You
18 may be excused.

19 MR. WESTFALL: Your Honor, we would like to
20 submit Ms. Cadwallader for cause. When I was speaking
21 with her, she finally said that she would be biased in a
22 terrorism case, and Mr. Jonas got up and spoke with her
23 and really laid out the presumption of innocence and then
24 finally asked her if she could apply that presumption in
25 this case, and she looked up and she kind of scanned the

18:00 1 defense table and said well I would hope so which is what
2 she said before. She went ahead and admitted she had a
3 bias. I think it's easy to infer and clearly a solid
4 inference that her bias would substantially impair her
5 jury service in this case, your Honor. And we submit her
6 for a challenge on that basis.

7 THE COURT: Mr. Jonas, what is your position?

8 MR. JONAS: Our position is cause has not been
9 established here. She said she would have no problem in
10 applying the protection and she can be fair and apply the
11 presumption of innocence here, and I think everyone has a
12 bias against terrorism. That doesn't necessarily mean
13 that she would not be fair in this case and give these
14 defendants a good trial.

18:00 15 THE COURT: Thank you, I will take this one
16 under advisement. Mr. Kiblinger, I think we're ready to
17 see next Ms. Hervey.

18 Good morning, Ms. Hervey. Counsel for the
19 parties have some questions they would like to ask you.

20 MR. WESTFALL: Good morning. I'm Greg Westfall.
21 How are you today?

22 VENIRE PERSON: Fine, thank you.

23 MR. WESTFALL: First of all, I would like to
24 thank you for coming in yesterday and today and doing all
25 the waiting you had to do. I'm a criminal defense lawyer,

18:00 1 and I'm on the defense team in this case which is the
2 United States versus the Holy Land Foundation. Are you
3 familiar with the case?

4 VENIRE PERSON: Not really other than what I
5 heard I think when it first happened.

6 MR. WESTFALL: Could you tell us what you heard
7 when it first happened?

8 VENIRE PERSON: Just that they went and raided
9 them and took some stuff. That's it. That's basically
10 all I remember.

11 MR. WESTFALL: Based on what you have heard,
12 have you formed any opinions as to the guilt or innocence
13 of the defendants?

14 VENIRE PERSON: No, sir.

18:00 15 MR. WESTFALL: The case is actually material
16 support of a terrorist organization. That's the
17 allegation. That's actually the title of the charge.
18 It's an American Muslim charity accused of giving material
19 support to HAMAS which is the foreign terrorist
20 organization. How do you feel about being on a jury with
21 that kind of case, that kind of issues?

22 VENIRE PERSON: How do I feel? Are you asking
23 if I would be partial?

24 MR. WESTFALL: It's a very vague question.
25 What's the first thing that crosses your mind?

18:00 1 VENIRE PERSON: A great deal of responsibility
2 to decide guilt or innocence. I really have no opinion
3 about it.

4 MR. WESTFALL: And since you brought it up, do
5 you have any issues of being fair and impartial?

6 VENIRE PERSON: I could be fair.

7 MR. WESTFALL: Could you be impartial?

8 VENIRE PERSON: I could be impartial.

9 MR. WESTFALL: Do you know any Muslims?

10 VENIRE PERSON: No, sir.

11 MR. WESTFALL: Have you ever?

12 VENIRE PERSON: No, sir.

13 MR. WESTFALL: Have you ever had any good
14 experiences or bad experiences with Arabic people?

18:00 15 VENIRE PERSON: Dealing with any job, the people
16 I see, I don't really know them. I have never had any
17 really bad experiences with them.

18 MR. WESTFALL: How long have you been working
19 with the credit union?

20 VENIRE PERSON: Almost seven years.

21 MR. WESTFALL: Do you like it?

22 VENIRE PERSON: Yes, sir.

23 MR. WESTFALL: What do you like about it?

24 VENIRE PERSON: I like meeting people. It's a
25 great way to meet people, and I feel like I perform great

18:00 1 customer service.

2 MR. WESTFALL: Pretty big credit union?

3 VENIRE PERSON: No, sir, we're small.

4 MR. WESTFALL: So you get to see the regulars?

5 VENIRE PERSON: Yes.

6 MR. WESTFALL: You work at a drive-in or window?

7 VENIRE PERSON: I work at a window.

8 MR. WESTFALL: What do you like to?

9 VENIRE PERSON: I like to bowl and play
10 basketball, anything to do with sports with my
11 granddaughter.

12 MR. WESTFALL: How old is your grand daughter?

13 VENIRE PERSON: One.

14 MR. WESTFALL: Does she live with you?

18:00 15 VENIRE PERSON: Yes.

16 MR. WESTFALL: How is the child care working?

17 VENIRE PERSON: I don't provide child care for
18 her. We have someone that does that.

19 MR. WESTFALL: The reason why I asked, this case
20 could go on for like four months. So if you had a one
21 year old at the house we needed to know about that. If
22 there weren't arrangements that could be made, that could
23 be a hardship issue. But we're all square there?

24 VENIRE PERSON: Yes, sir.

25 MR. WESTFALL: And you are okay with your job

18:00 1 for being gone four months?

2 VENIRE PERSON: I think my employer might have a
3 hardship about it with me going so long since I recently
4 got a promotion of branch manager. She may have a problem
5 since we are a small credit union and might have a problem
6 finding someone to fill in for me for a long period of
7 time.

8 MR. WESTFALL: That could be an issue. Please
9 find out, okay, just how big an issue that is.

10 VENIRE PERSON: With my employer?

11 MR. WESTFALL: Yes.

12 VENIRE PERSON: She wrote a letter. I think
13 it's addressed to the Judge.

14 MR. WESTFALL: Well, he probably has that.

18:00 15 VENIRE PERSON: No, he doesn't. I have it. He
16 hasn't seen the letter.

17 MR. WESTFALL: How long were you on the jury
18 with the sexual assault?

19 VENIRE PERSON: It lasted probably four or five
20 days. It was no longer than a week.

21 MR. WESTFALL: How did you like it?

22 VENIRE PERSON: It was uncomfortable listening
23 to --

24 MR. WESTFALL: Why?

25 VENIRE PERSON: Because, as I said, it was a

18:00 1 sexual assault case and me being a female it was
2 uncomfortable listening to some of the things she said
3 happened to her. So it was a little uncomfortable.

4 MR. WESTFALL: Was it her word against his?

5 VENIRE PERSON: It was basically her word
6 against his, and when the police showed up he jumped up
7 and ran. They really didn't see anything. But it was
8 basically her word against his word.

9 MR. WESTFALL: You remember all the instructions
10 about the burden of proof and the presumption of
11 innocence?

12 VENIRE PERSON: Yes, sir.

13 MR. WESTFALL: How do you feel about those
14 protections?

18:00 15 VENIRE PERSON: That everyone is innocent until
16 proven guilty. I believe that is true. You have to prove
17 them guilty in order to find them guilty. It has to be
18 proved.

19 MR. WESTFALL: Did you get a sense that among
20 the jurors in that case the presumption of innocence was
21 applied?

22 VENIRE PERSON: Towards the young man?

23 MR. WESTFALL: Yes.

24 VENIRE PERSON: Yes. We all considered him
25 innocent until we heard everything that went on, and we

18:00 1 all went from there.

2 MR. WESTFALL: How do you feel about those
3 protections in this case, in a terrorism-related case?

4 VENIRE PERSON: That they are innocent. I
5 believe, as I said, everyone is innocent until we actually
6 prove them guilty.

7 MR. WESTFALL: Do you do anything with the
8 church? Are you active in your church?

9 VENIRE PERSON: No, sir.

10 MR. WESTFALL: Have you ever done girls club or
11 boys club or Big Sisters?

12 VENIRE PERSON: Participated in the boys and
13 girls club, but that's been a few years ago.

14 MR. WESTFALL: How do you feel about charity?
15 18:00 Do you ever donate to charity?

16 VENIRE PERSON: Yes, sir, I give to United Way
17 and stuff like that. I donate to charity.

18 MR. WESTFALL: Why do you do that?

19 VENIRE PERSON: I feel like if you are able to
20 give you should give. Some people aren't as fortunate as
21 you are.

22 MR. WESTFALL: If you are sitting over there, do
23 you want to see you on this jury?

24 VENIRE PERSON: If I'm sitting over there? As I
25 said, I could be fair and impartial. It's up to you if I

18:00 1 sit over here.

2 MR. WESTFALL: Thank you.

3 THE COURT: Counsel for the government have
4 questions of Ms. Hervey.

5 MS. SHAPIRO: Good morning, my name is Elizabeth
6 Shapiro, and I'm one of the prosecutors representing the
7 government in this case. I have a few additional
8 questions to ask you. It looks like you were born in
9 Georgia. Is that right?

10 VENIRE PERSON: No.

11 MS. SHAPIRO: Born here in Dallas?

12 VENIRE PERSON: Yes, ma'am.

13 MS. SHAPIRO: Where did I see Georgia?

14 VENIRE PERSON: I lived in Georgia for a while.

18:00 15 MS. SHAPIRO: When was that?

16 VENIRE PERSON: Probably almost twenty years
17 ago.

18 MS. SHAPIRO: With your family?

19 VENIRE PERSON: My ex-husband, yes.

20 MS. SHAPIRO: What brought you to Texas?

21 VENIRE PERSON: I have always lived in Texas.
22 He was in the military.

23 MS. SHAPIRO: I see and then you came back?

24 VENIRE PERSON: Yes.

25 MS. SHAPIRO: Where did you study business?

18:00 1 VENIRE PERSON: North Texas University.

2 MS. SHAPIRO: What was your favorite subject

3 there?

4 VENIRE PERSON: Economics.

5 MS. SHAPIRO: Take a lot of economics classes?

6 VENIRE PERSON: No, ma'am, just that one.

7 MS. SHAPIRO: How many brothers and sisters do

8 you have?

9 VENIRE PERSON: One sister, four brothers.

10 MS. SHAPIRO: A lot of children. It looks like

11 you have had uncles that had some encounters with the

12 criminal justice system?

13 VENIRE PERSON: Yes, ma'am.

14 MS. SHAPIRO: Are those brothers of your mother

18:00 15 or father?

16 VENIRE PERSON: They are my mother's brothers.

17 MS. SHAPIRO: Two?

18 VENIRE PERSON: Yes.

19 MS. SHAPIRO: And it says they served some

20 prison time. Are they out of prison now?

21 VENIRE PERSON: Yes.

22 MS. SHAPIRO: And how old were you when they

23 were in prison?

24 VENIRE PERSON: I have one uncle. He just

25 recently got out. The other uncle, probably he's been

18:00 1 deceased almost five years. So it's probably been about
2 seven years ago.

3 MS. SHAPIRO: Were you close to them?

4 VENIRE PERSON: We weren't real close. I did
5 see them, but that's about it.

6 MS. SHAPIRO: Was your family involved in their
7 defense and helping them during that process?

8 VENIRE PERSON: No.

9 MS. SHAPIRO: Do you have a sense that at the
10 end of the day they were treated fairly by the criminal
11 justice system?

12 VENIRE PERSON: That they were treated fairly?

13 MS. SHAPIRO: Yes.

14 VENIRE PERSON: I believe what they say they
15 did, they did receive the right punishment.

16 MS. SHAPIRO: Do you have any lingering bad
17 feelings from that that might cause you to be biased
18 against the government in any way?

19 VENIRE PERSON: No, ma'am.

20 MS. SHAPIRO: You did serve on a jury, and with
21 respect to those cases on which you sat, at the end of the
22 case the judge gave you instructions on the law to apply
23 to the case. Do you remember that?

24 VENIRE PERSON: Yes.

25 MS. SHAPIRO: The Court in this case will also

18:00 1 give you instructions at the end of the case after all the
2 evidence has been heard, and the Judge is likely to
3 instruct you that HAMAS is a foreign terrorist
4 organization and has been designated as such by the United
5 States, and he would also instruct you on what constitutes
6 material support to HAMAS, and this case is about material
7 support to a foreign terrorist organization. And in those
8 instructions, he may tell you that sending money to HAMAS,
9 a foreign terrorist organization, is illegal. And they
10 also tell you that even if that money was partially spent
11 on humanitarian items, things like food or clothes or
12 medicine or things of that nature, that too is illegal if
13 it is knowingly sent to the benefit of this terrorist
14 organization. Do you understand that idea?

18:00 15 VENIRE PERSON: Yes, ma'am.

16 MS. SHAPIRO: Do you have any problem accepting
17 that statement of the law?

18 VENIRE PERSON: No, ma'am.

19 MS. SHAPIRO: If the Judge gave you such an
20 instruction, would you be able to follow it?

21 VENIRE PERSON: Yes, sir.

22 MS. SHAPIRO: Thank you very much.

23 THE COURT: Ms. Hervey, we're in the process of
24 talking to the members of the panel from which the jury
25 will be selected that would hear this case. I expect that

18:00 1 process will continue until later today. So until you
2 hear from us again, you should not discuss this case with
3 anyone or allow anyone to discuss it with you, and if
4 there are any media accounts about this case in the
5 newspapers or on television or on radio, you should not
6 read or watch or listen to any of those media accounts.
7 And one final thing. I believe you said you had a letter
8 for me which I've not seen. If you want to deliver that
9 to me, I'll look at it now.

10 If you will remain seated I will read this. No
11 one else involved in the trial has seen this either. It's
12 on the letterhead of Metro Medical Credit Union, dated
13 June 17, 2007, re: Jury duty, June Hervey, Branch
14 Manager, Metro Medical Credit Union.

18:00 15 "Dear Judge, Our employee, June Hervey, has been
16 summoned to report to the jury room on Wednesday July 18,
17 2007 to be considered as a prospective juror. We are a
18 small credit union with two branches and eighteen
19 employees, one of which is myself, of which several are
20 new employees. I'm concerned if Ms. Hervey is picked for
21 a jury for a trial lasting more than a couple of days, it
22 would place an undue hardship on our business. Ms. Hervey
23 was our backup when we lost our branch manager due to
24 termination. She's now our branch manager. We don't have
25 a backup. None of our employees is able to handle the job

18:00 1 for more than a few days, and we have no one at the home
2 office to replace the branch manager. I am aware it is
3 our civic duty to serve as jurors, and several of our
4 employees have served in the past. I feel it's important
5 to society that civic duty not cause small businesses
6 undue risk. I have spoken with Ms. Hervey, and if you
7 have any questions, please feel free to call me. Yours
8 truly, Delores Jarbo, President, Metro Medical Credit
9 Union."

10 Thank you, Ms. Hervey, we will certainly take
11 into account this letter when we are making a decision
12 about whether you should serve.

13 Thank you, ma'am, you may be excused.

14 Ladies and Gentlemen, it's now noon by the clock
18:00 15 on the wall. So I would like to take our midday luncheon
16 recess from now until one o'clock. I have been working on
17 the tabulation of the lists of the persons we have talked
18 to on the panel, and I have made a tabulation which for
19 the sake of saving time I had Ms. Piwoni type up, and I
20 have had copies made, and so I am going to ask that Mr.
21 Kiblinger distribute those to you now. I would like you
22 to review these during the noon hour, if you can, and if
23 you disagree with the way that I have tabulated this, I
24 would like to know when we resume. I did my best on this.
25 There is a certain arbitrariness, I guess. The persons on

18:00 1 the list entitled Jurors Available to Serve, what I meant
2 by that heading is these are people which according to my
3 notes neither side has moved to challenge for cause, and I
4 did not understand them to express any kind of a hardship
5 in serving. As I was about to say, there is a certain
6 arbitrariness. For example, Number 22 on that list is
7 Diane Shrum, and she did say she was not looking forward
8 to putting her life on hold for three to four months to
9 serve on the jury. I suppose she could have gone on the
10 hardship list, but I didn't interpret that as anything
11 more than what anyone else would feel at the prospect of
12 serving on a jury for four months. That's why I put her
13 on the available list instead of hardship list. One
14 reason I put Ms. Medina on the hardship excuses pending
18:00 15 list -- She's Number 5 on that list -- I think I mentioned
16 to you earlier that the jury administrator had reported to
17 me that Ms. Medina said when she got back down to the
18 central jury room that she had not been able to tell us
19 about pre-existing travel plans. I have an e-mail from
20 the jury administrator today which said that Ms. Medina
21 said she has travel plans from July 20 to July 22, August
22 3rd to August 6th and August 30th to September 3rd, but
23 that she did not have an opportunity in the courtroom to
24 let the judge slash parties know.

25 One other thing that I needed to just let you

18:00 1 know about because I'm learning something about our jury
2 administration system, too. I am usually not involved to
3 this extent in jury selection, and probably you are not
4 either. It was reported to me that one of the things that
5 the counsel for the government was considering and whether
6 to give me back some of the strikes I had previously
7 allocated is they would like the jurors in the same order
8 that we have talked to them.

9 I have learned that apparently each day there is
10 an automated system in the jury administrator's office
11 that when they check these jurors the system automatically
12 randomizes the list, and there is no way to override that
13 system. So I then inquired if there is some importance in
14 having the people in the same order in which we talked to
18:00 15 them, if that could be done manually, and the jury
16 administrator responded that they could do the list
17 manually, but it's important apparently to her for Susan
18 Hudson, my coordinator here, to get together with her to
19 be sure we have the list in the right order that the
20 parties wanted it. Also, I don't have any information if
21 we did that manually how long it would take tomorrow
22 morning. Typically, these people don't get here until
23 8:30 and 9:00, and my question is if we had to do it
24 manually there may be a delay while we prepare that list.
25 That's the information I have on some of the issues that

18:00 1 have come up on how far along we are.

2 One other thing that occurs to me. These lists
3 I have handed out only go through Ms. Prince because there
4 was some time involved in typing them up. So Ms.
5 Cadwallader and Ms. Hervey are not on the lists. We will
6 be in recess for lunch until one o'clock.

7 (Recess)

8 THE COURT: Good afternoon, Ladies and
9 Gentlemen. I realize I passed these lists out in haste
10 this afternoon before lunch, and it was reported to me
11 that some defense counsel were unclear about what I wanted
12 you to do. I apologize for that.

13 This is my own list that I prepared. And as you
14 can see from my computations we are slightly above the
18:00 15 minimum threshhold that we would need if there is no
16 recompuation of the peremptory challenges for alternate
17 jurors that was raised briefly in discussion this morning.

18 I guess the reason I wanted to share these with
19 you is that I wanted to see if you had any disagreement in
20 your own notes with the categories that we have put these
21 persons in. I don't want an argument, but if you think I
22 have made a clerical error in putting them in the wrong
23 column, that's what I want to know.

24 And then counsel for the government asked this
25 morning for some time to reflect on whether the government

18:00 1 could give me back some strikes for alternate jurors.
2 However, if there is no consensus about that, I think we
3 need to push on and hear from a few venire this afternoon
4 so that we can make this deadline to put the names on the
5 automated phone system.

6 MR. JACKS: Judge, I realize I may be hitting
7 the tennis ball back over the net. As I understand it,
8 the only thing we're dealing with is three strikes or six
9 strikes for the alternates.

10 THE COURT: That's my understanding.

11 MR. JACKS: And I think both sides would like to
12 know what that universe is. And I think obviously the
13 Court's determination of cause will determine where that
14 universe is on the lists. So I would think if the Court
18:00 15 were to tell us of its rulings with regard to these for
16 cause -- and we could pretty quickly see that means the
17 alternates are going to be in this range -- we could give
18 an answer to the Court in terms of we have enough, three
19 strikes would be satisfactory to both sides or six
20 strikes. But that's kind of the initial response that we
21 would have.

22 THE COURT: Well, my intent currently is to
23 sustain all of the challenges for cause that are on this
24 list that I gave you. That's through 10 starting with
25 Geraldine Pritchard and ending with John Abelar. And also

18:00 1 to grant the hardship excuses shown in that list ending
2 with Erbert. And so that would leave us this fifty people
3 who are on the list shown as jurors available to serve.

4 MR. JACKS: Judge, were there some additions to
5 this list?

6 THE COURT: There are two other people, as I
7 mentioned, that are not on any of these lists because of
8 just timing. Ms. Piwoni was typing this up this morning
9 as we spoke with the jurors, Ms. Cadwallader and Ms.
10 Hervey, and I would put Ms. Cadwallader in the
11 challenge-for-cause category because of the defendant's
12 challenge to her, and my intent would be to excuse her for
13 cause, and then Ms. Hervey I would put in the hardship
14 category in view of the letter that her employer wrote
18:00 15 which I read into the record shortly before we recessed.
16 So we're still at the same number of people available to
17 serve; namely, fifty.

18 MR. JACKS: And so we would be able to calculate
19 which of these jurors would be within the alternate pool,
20 and just for clarification, I assume if a juror is
21 excused, the alternate would replace them in numerical
22 order.

23 THE COURT: That would be my assumption. I have
24 never done it in this struck method. Still, we know who
25 the alternates are on the list, and so as I previously

18:00 1 indicated, I don't want to tell the jurors themselves who
2 are regular jurors and who are alternates. All of us
3 would know that, and it is my assumption that the
4 alternates would replace the jurors as necessary in the
5 order in which they are alternate. In other words,
6 Alternate Number 1 and 2 and so forth.

7 MR. JACKS: Your Honor, if we could have a few
8 moments to determine where the alternate pool may be, I
9 think we can give you our answer pretty quickly as to
10 whether three strikes is fine or six.

11 THE COURT: Let me ask one other question. Does
12 your answer presuppose that we will do this manual list
13 tomorrow rather than this automatically randomization? I
14 think that would entail some delay we won't otherwise
18:00 15 experience and may require us to start at ten rather than
16 nine.

17 MR. JACKS: Yes, sir. I think we are all hoping
18 that they will stay in the order. At least the numerical
19 one for Monday would be followed by Tuesday and Wednesday
20 and so forth. I think we're counting on that so that we
21 can keep straight who's going to be where on the list.

22 THE COURT: Why don't we take a few minutes
23 while you talk about that. I don't want to take too long
24 because if we don't reach some agreement, we have to keep
25 pushing ahead, and we have this three o'clock deadline.

18:00 1

(Recess)

2 THE COURT: Mr. Jacks, have you had an
3 opportunity to consider the things that were discussed and
4 reach some understanding about them?

5 MR. JACKS: Yes, your Honor. And I'm not that
6 confident in my calculations. You go to law school and
7 somehow the hardest thing is to count.

8 THE COURT: I understand.

9 MR. JACKS: But our position is that we would
10 certainly be willing to agree to each side having four
11 strikes among the alternate pool, and if that were the
12 case, assuming no double strikes --

13 THE COURT: I don't think we can have double
14 strikes under this struck jury method.

18:00 15

MR. WESTFALL: Just to make sure.

16 MR. JACKS: To really make sure. That would
17 leave a cushion of five jurors in the event something
18 happens in the general voir dire. That's an adequate
19 cushion for the Court, and I think we have probably
20 questioned enough jurors to move into the general voir
21 dire tomorrow.

22 THE COURT: Okay. Well, that sounds good to me.
23 Anyone on the defense side disagree with what Mr. Jacks
24 said?

25 MR. WESTFALL: No, your Honor, we don't

18:00 1 disagree. I wanted to ask one thing. Ms. Shrum yesterday
2 brought that note from her chiropractor.

3 THE COURT: Oh, yes, I know the one you are
4 talking about. Yes, you are right. I guess I had
5 somewhat forgotten about that. The note from the
6 chiropractor recommends that she not participate as a
7 juror due to a chronic low back condition that would
8 include prolonged sitting. I guess the reason I did not
9 put her in the hardship category is I believe I asked her
10 a follow-up question after we saw this letter, whether she
11 thought she could sit for as long as an hour and a half at
12 a time, and she said yes.

13 MR. WESTFALL: I think she did, too. I just
14 wondered whether the Court thought it was a hardship.
18:00 15 With that clarification, I don't think we have a problem
16 with the -- what the court just said with the four
17 strikes. Ms. Moreno asked me to make sure the Court knew
18 about Mr. Baccus. I don't know if the Court wants to do
19 anything about him.

20 THE COURT: Yes, I'm cognizant of what she said
21 at the end of the day yesterday to the effect that she had
22 been able to verify Mr. Elashi was the family with whom
23 Mr. Baccus's wife had served as an intern, but he did not
24 know them personally, and so I thought that was something
25 that the parties might want to take note of exercising

18:00 1 their peremptory challenges, but I didn't think it really
2 affected his status as a person who was qualified to
3 serve, from what I know.

4 Let me just ask one other point of
5 clarification, Mr. Westfall, while you are standing. I
6 don't know what benefit keeping this list in the same
7 order will have on our proceedings tomorrow. But
8 expecting it may cause some delay beyond what we would
9 others experience because we are doing these lists
10 manually as the people come and are checked in as opposed
11 to the automatic system that randomizes it, and I want to
12 make sure that defense counsel understands that. I don't
13 know if defense counsel are planning to go back to their
14 residences out of town this weekend. And it may be at ten
18:00 15 o'clock as opposed to a nine o'clock.

16 MR. WESTFALL: Ten o'clock is fine. That's just
17 fine. And it's not going to cause any hardship to us if
18 the jurors are seated in the order that they were called
19 this week. That's fine with us. We have no objection to
20 that.

21 THE COURT: Well, I guess we can go ahead and
22 give this list I entitled Jurors Available to Serve to the
23 jury clerk, and they can begin putting those names on the
24 system before three o'clock.

25 I have your letter you handed up, Mr. Westfall,

18:00 1 this morning. Unfortunately, I didn't have much time to
2 do anything with it, but I appreciate your putting down in
3 writing what you would like to accomplish. It doesn't
4 show a copy of this to the government. So let me just
5 read it into the record so it's clear what is being
6 proposed here.

7 MR. JACKS: Your Honor, he did serve us with a
8 copy.

9 THE COURT: Okay. Do you have any different
10 view about what this general voir dire session should
11 consist of, Mr. Jacks?

12 MR. JACKS: No, your Honor.

13 THE COURT: I will file this with the record
14 then, and I will attempt to cover the points that have
18:00 15 been discussed in Mr. Westfall's letter, and I'm still of
16 the opinion that can probably be done in the space of
17 maybe thirty minutes to an hour, and then I would
18 anticipate that we could move very quickly into the
19 process of parties exercising their peremptory challenges.
20 There may be some brief delay just because of my
21 unfamiliarity and the Government's unfamiliarity with this
22 system, but I'm sure that counsel who have been through
23 this before can guide us. I do think after reflecting on
24 it overnight that it would be better if we excuse the
25 panel from the courtroom before this process begins

18:00 1 because it seems to me that it would be unwieldy to try to
2 have bench conferences with as many parties as we have
3 here.

4 However, I do intend to keep the panel in the
5 jury assembly room because once we know who the twelve and
6 the six alternates are, I think we need to bring them back
7 to the courtroom and have some further proceedings with
8 them. I think I have told the parties earlier that for
9 this case we've established a remote location for them to
10 come to in the morning, and then they will be driven here
11 by the Marshal in a van so that they will be all together
12 and won't have to run the gauntlet of the media and press
13 and so forth, and then they will be transported back in
14 the same manner in the afternoon. I think we need to
18:00 15 discuss that with them and let them know where they need
16 to be and when, and I guess we have tentatively
17 established Tuesday as the start date of when they need to
18 report, if I understood that correctly. So anyway, we
19 need to be sure they know about that. And also, I may
20 need to reiterate at that point just the importance of
21 their not paying attention to any media accounts of this
22 case while we're apart from them.

23 It was just pointed out to me -- I guess I'm
24 still unused to the publicity that a case like this
25 generates. Ms. Casey just pointed out to me we won't be

18:00 1 able to have such an orientation in an open session
2 because that would broadcast where the remote site is and
3 defeat the purpose. Maybe the marshal could do it
4 himself. But I probably do need to direct them so the
5 marshal can talk to them about that.

6 MR. DRATEL: The government filed a Section 4
7 notice last night, and I know the court has issued an
8 order. It's been briefed before, but to put on the record
9 the defenses' objection to the ex parte aspect of it and
10 deviation from the due process that we have objected to
11 earlier.

12 THE COURT: Yes, sir. Thank you.
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1 C E R T I F I C A T I O N
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I, Cassidy L. Casey, certify that during the proceedings of the foregoing-styled and -numbered cause, I was the official reporter and took in stenotypy such proceedings and have transcribed the same as shown by the above and foregoing Pages 862 through 986 and that said transcript is true and correct.

I further certify that the transcript fees and format comply with those prescribed by the court and the Judicial Conference of the United States.

13
14
15 s/Cassidi L. Casey

16 CASSIDI L. CASEY
17 UNITED STATES DISTRICT REPORTER
18 NORTHERN DISTRICT OF TEXAS
19 DALLAS DIVISION
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